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1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X

5 FRONTIER AIRLINES, INC.,

6 Plaintiff,

7 - against -

8 AMCK AVIATION HOLDINGS IRELAND

LIMITED, ACCIPITER INVESTMENT 4

9 LIMITED, VERMILLION AVIATION (TWO)

LIMITED, WELLS FARGO TRUST COMPANY,

10 N.A., solely in its capacity as OWNER

TRUSTEE, and UMB BANK, N.A., solely in

11 its capacity as OWNER TRUSTEE,

12 Defendants.

13 CASE NO.: 1:20-cv-09713-LLS

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14
15 * * * C O N F I D E N T I A L * * *

16
17 ZOOM VIDEOCONFERENCE

18
April 6, 2022

19 9:02 a.m. MDT

20
21 DEPOSITION of JAMES DEMPSEY, before
22 Melissa Gilmore, a Stenographic Reporter and
23 Notary Public of the State of New York.

24
25 Job No. NY5155657

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<p style="text-align: right;">Page 2</p> <p>1 2 A P P E A R A N C E S: 3 LANE POWELL PC 4 Attorneys for Plaintiff 5 601 SW Second Avenue, Suite 2100 6 Portland, Oregon 97204-3158 7 BY: DAVID G. HOSENPUD, ESQ. 8 E-MAIL hosenpudd@lanepowell.com 9 10 11 CLIFFORD CHANCE US LLP 12 Attorneys for Defendants 13 31 West 52nd Street 14 New York, New York 10019-6131 15 BY: JEFF BUTLER, ESQ. 16 GEGE WANG, ESQ. 17 E-MAIL jeff.butler@cliffordchance.com 18 gege.wang@cliffordchance.com 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 DEMPSEY - CONFIDENTIAL 2 J A M E S D E M P S E Y, called as a 3 witness, having been duly placed under 4 oath by a Notary Public, was examined and 5 testified as follows: 6 MR. BUTLER: David, why don't we 7 introduce ourselves for the record? 8 My name is Jeff Butler. I'm from 9 the law firm of Clifford Chance 10 representing AMCK and the other defendants 11 in this action. With me today is my 12 colleague, Gege Wang. 13 MR. HOSENPUD: David Hosenpud on 14 behalf of Frontier Airlines with Lane 15 Powell. 16 EXAMINATION BY 17 MR. BUTLER: 18 Q. All right. Good morning, 19 Mr. Dempsey. 20 A. Good morning. 21 Q. Could you please state your full 22 name for the record? 23 A. James Dempsey. 24 Q. And where do you currently reside? 25 A. In Colorado.</p>
<p style="text-align: right;">Page 3</p> <p>1 2 FEDERAL STIPULATIONS 3 4 IT IS STIPULATED AND AGREED by 5 and between the attorneys for the respective 6 parties herein, that the filing, sealing, 7 and certification of the within deposition 8 be waived. 9 IT IS FURTHER STIPULATED AND 10 AGREED that all objections, except as to the 11 form of the question, shall be reserved to 12 the time of the trial. 13 IT IS FURTHER STIPULATED AND 14 AGREED that the within deposition may be 15 sworn to and signed before any officer 16 authorized to administer an oath, with the 17 same force and effect as if signed to before 18 the Court. 19 20 21 - oOo - 22 23 24 25</p>	<p style="text-align: right;">Page 5</p> <p>1 DEMPSEY - CONFIDENTIAL 2 Q. Any particular city or town in 3 Colorado? 4 A. Englewood, Colorado. 5 Q. Okay. Is that near Denver? 6 A. Yeah, it's like in the metro area. 7 It's effectively Denver. 8 Q. Are you currently employed by 9 Frontier Airlines? 10 A. Yes. 11 Q. And what is your position? 12 A. I am the executive vice president 13 and chief financial officer. 14 Q. Was that also your position in the 15 2020 time frame? 16 A. Yes. 17 Q. When did you join Frontier? 18 A. May 2014. 19 Q. And can you just give me a brief 20 description of your career before joining 21 Frontier? 22 A. Sure. I worked prior to Frontier in 23 an airline in Europe called Ryanair for just 24 over ten years. And prior to that, I worked in 25 PricewaterhouseCoopers.</p>

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<p style="text-align: right;">Page 6</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Q. Do you have an accounting</p> <p>3 background?</p> <p>4 A. Yes, I'm a chartered accountant.</p> <p>5 Q. In 2020, who did you report to?</p> <p>6 A. The chief executive.</p> <p>7 Q. And who was that?</p> <p>8 A. Barry Biffle.</p> <p>9 Q. And who reported to you at that</p> <p>10 time?</p> <p>11 A. I'm in charge of the finance</p> <p>12 function, which incorporates accounting, FP&A,</p> <p>13 treasury and all the things in those sections.</p> <p>14 Q. Are there particular individuals</p> <p>15 within AMCK who reported directly to you in</p> <p>16 2020?</p> <p>17 A. Nobody in AMCK reported directly to</p> <p>18 me.</p> <p>19 Q. I'm sorry. Let me restate the</p> <p>20 question. Thank you for the clarification.</p> <p>21 Was there -- were there particular</p> <p>22 individuals within Frontier who reported</p> <p>23 directly to you in the 2020 time frame?</p> <p>24 A. Yes, our VP of treasury, Spencer</p> <p>25 Thwaytes has a direct reporting line to me.</p>	<p style="text-align: right;">Page 8</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 A. Not directly with AMCK, but</p> <p>3 certainly, as we were managing through COVID,</p> <p>4 he was involved in all aspects of managing</p> <p>5 through COVID, including our arrangements with</p> <p>6 AMCK.</p> <p>7 Q. Did you communicate on a regular</p> <p>8 basis with Mr. Biffle about the AMCK situation?</p> <p>9 A. I kept him informed, yes.</p> <p>10 Q. And how did you keep him informed?</p> <p>11 Did you do that by e-mail?</p> <p>12 A. No, we had a -- at the time, when</p> <p>13 you're managing through such a crisis, we had</p> <p>14 regular update calls on various aspects of the</p> <p>15 business. And if I had an update that I felt</p> <p>16 was necessarily in relation to AMCK, I would</p> <p>17 have delivered that in our daily update calls.</p> <p>18 Q. Apart from the daily update calls</p> <p>19 involving Mr. Biffle, did you also send him</p> <p>20 e-mails from time to time about AMCK?</p> <p>21 A. I don't recall.</p> <p>22 Q. Did you send him text messages</p> <p>23 concerning AMCK?</p> <p>24 A. I don't recall.</p> <p>25 Q. Was it your practice in 2020 to send</p>
<p style="text-align: right;">Page 7</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Q. Were there any other individuals who</p> <p>3 reported directly to you at that time?</p> <p>4 A. Yeah, our chief accounting officer,</p> <p>5 Mark Mitchell, our head of FP&A, or VP of FP&A,</p> <p>6 Ashok Shaw, reported directly to me at that</p> <p>7 time.</p> <p>8 Q. Anyone else at that time?</p> <p>9 A. They were my direct reports.</p> <p>10 Q. In the 2020 time frame, obviously</p> <p>11 you had some dealings with AMCK and the</p> <p>12 relationship between Frontier and AMCK is</p> <p>13 what's at issue in this lawsuit.</p> <p>14 Who were your contacts at AMCK?</p> <p>15 A. Paul Sheridan was my main point of</p> <p>16 contact in AMCK.</p> <p>17 Q. Do you recall dealing with anybody</p> <p>18 else directly either by telephone or in</p> <p>19 meetings in the 2020 time frame?</p> <p>20 A. I mean, Jane O'Callaghan was on some</p> <p>21 conference calls. There may have been other</p> <p>22 members of their teams. I don't recall their</p> <p>23 names.</p> <p>24 Q. Was Mr. Biffle involved in</p> <p>25 discussions of AMCK in the 2020 time frame?</p>	<p style="text-align: right;">Page 9</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 text messages from time to time to Mr. Biffle?</p> <p>3 A. Yeah, I'm sure -- I'm sure. Yes, I</p> <p>4 would send text messages, yes.</p> <p>5 Q. Was it also your practice in 2020 to</p> <p>6 send e-mails from time to time to Mr. Biffle?</p> <p>7 A. Yes. I mean, it's one of the</p> <p>8 communication devices that we use.</p> <p>9 Q. Do you have -- and I assume</p> <p>10 Mr. Biffle responded to you using both text and</p> <p>11 e-mails where appropriate; is that right?</p> <p>12 A. I mean, I don't know what</p> <p>13 particular -- if there was a particular issue</p> <p>14 that required a response, he would respond</p> <p>15 appropriately. He may call me. He may text</p> <p>16 me. It really depends on what the form was or</p> <p>17 what the individual issue is.</p> <p>18 Q. I guess part of what I'm asking is,</p> <p>19 Mr. Biffle was not averse to using technology</p> <p>20 like text messaging and e-mails to communicate</p> <p>21 with his -- his personnel; is that right?</p> <p>22 A. He is capable of using text message</p> <p>23 and e-mail.</p> <p>24 Q. As you sit here today, can you think</p> <p>25 of any e-mail or text message that you</p>

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<p style="text-align: right;">Page 10</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 exchanged with Mr. Biffle concerning AMCK in</p> <p>3 the 2020 time frame?</p> <p>4 A. I don't recall.</p> <p>5 Q. I just want to ask you briefly about</p> <p>6 some of the agreements that are at issue in</p> <p>7 this lawsuit, really just setting the stage for</p> <p>8 what we're going to be discussing later today.</p> <p>9 My understanding is that in the --</p> <p>10 at the beginning of March 2020 Frontier</p> <p>11 Airlines had a total of 14 leases with AMCK and</p> <p>12 its affiliates for A320 -- Airbus A320</p> <p>13 aircraft.</p> <p>14 Is that also your understanding?</p> <p>15 A. We had quite a significant</p> <p>16 relationship with AMCK, yes.</p> <p>17 Q. I'm asking, sir, do you recall that</p> <p>18 there were a total of 14 leases in place with</p> <p>19 AMCK as of the beginning of March 2020?</p> <p>20 A. I believe that's correct, yeah.</p> <p>21 Q. And under each of those leases, were</p> <p>22 there monthly payments of rent that were due?</p> <p>23 A. Yes.</p> <p>24 Q. And I heard from Mr. Fanning the</p> <p>25 other day that Frontier was very scrupulous</p>	<p style="text-align: right;">Page 12</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 been amended thereafter multiple times, but I</p> <p>3 think the most recent one material amendment</p> <p>4 would have been in towards the end of 2017.</p> <p>5 Q. And how many aircraft total were</p> <p>6 ordered by either Republic or Frontier under</p> <p>7 that Purchase Agreement?</p> <p>8 A. I don't have the exact numbers. I</p> <p>9 know that Republic ordered 80 aircraft. We</p> <p>10 ordered an additional 134 aircraft in the</p> <p>11 fourth quarter of 2020 -- or 2017.</p> <p>12 There were some other aircraft</p> <p>13 through the years that may have been bolted</p> <p>14 onto that agreement. I don't recall the exact</p> <p>15 numbers.</p> <p>16 Q. Do you recall roughly how many</p> <p>17 aircraft remained to be delivered by Airbus</p> <p>18 under that agreement in March of 2020?</p> <p>19 A. I don't have that number to hand.</p> <p>20 Probably somewhere around 150 or 160, but I</p> <p>21 don't have that number to hand.</p> <p>22 Q. And did AMCK have anything to do</p> <p>23 with Frontier's Purchase Agreement with Airbus?</p> <p>24 A. No, the Purchase Agreement with</p> <p>25 Airbus was between Frontier and Airbus.</p>
<p style="text-align: right;">Page 11</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 about always paying those rent payments on time</p> <p>3 prior to March 2020.</p> <p>4 Is that your understanding as well?</p> <p>5 MR. HOSENPUD: Objection, form.</p> <p>6 You can answer.</p> <p>7 A. Yes, we paid our rent on time.</p> <p>8 Q. Can you think of any instance, prior</p> <p>9 to March of 2020, where Frontier failed to pay</p> <p>10 its rent on time for any of those 14 leases</p> <p>11 involving AMCK?</p> <p>12 MR. HOSENPUD: Objection, form.</p> <p>13 You can answer.</p> <p>14 A. I have no recollection of us missing</p> <p>15 rent payments.</p> <p>16 Q. At the beginning of March of 2020,</p> <p>17 did Frontier also have a Purchase Agreement</p> <p>18 with Airbus?</p> <p>19 A. Yes.</p> <p>20 Q. And do you recall when was that</p> <p>21 Purchase Agreement first entered?</p> <p>22 A. The original agreement, I think, was</p> <p>23 entered into by our predecessor, Republic</p> <p>24 Airlines, in -- I could be wrong on this, but I</p> <p>25 think 2011. And then the agreement would have</p>	<p style="text-align: right;">Page 13</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Q. So AMCK was not a party to that</p> <p>3 agreement in any way; is that correct?</p> <p>4 A. Not to the Purchase Agreement, no.</p> <p>5 Q. As you know, this case also relates</p> <p>6 to a Framework Agreement between Frontier</p> <p>7 Airlines and AMCK that was for the</p> <p>8 sale-leaseback of six of the aircraft to be</p> <p>9 delivered by Airbus under the Purchase</p> <p>10 Agreement.</p> <p>11 Is that your understanding as well?</p> <p>12 A. Yes.</p> <p>13 Q. And just to make sure we have the</p> <p>14 same understanding of the Framework Agreement,</p> <p>15 is it your understanding that under that</p> <p>16 agreement for each of those six aircraft</p> <p>17 Frontier -- strike that -- AMCK would purchase</p> <p>18 the aircraft from Frontier and then lease it</p> <p>19 back to Frontier?</p> <p>20 A. Under the binding Framework</p> <p>21 Agreement, yes, AMCK at the point of delivery</p> <p>22 of the aircraft, would simultaneously purchase</p> <p>23 the aircraft, yes, and then we would lease it</p> <p>24 back for a term.</p> <p>25 Q. Right. And it would purchase the</p>

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<p style="text-align: right;">Page 14</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 agreement -- it would pay Frontier for the</p> <p>3 aircraft, and then it would receive a stream of</p> <p>4 monthly payments under a Lease Agreement as an</p> <p>5 exchange with Frontier; is that right?</p> <p>6 A. Yeah, among other items in the</p> <p>7 lease. Yes, the principal commercial term is</p> <p>8 to pay rent.</p> <p>9 Q. And as I understand it, the first</p> <p>10 delivery under the Framework Agreement, that</p> <p>11 first exchange occurred on March 16, 2020.</p> <p>12 Is that consistent with your memory</p> <p>13 as well?</p> <p>14 A. I mean, on or -- yes, on or about</p> <p>15 that time.</p> <p>16 Q. Do you remember that it was March 16</p> <p>17 or you're not sure about that date?</p> <p>18 A. I believe it was March 16, yeah. I</p> <p>19 don't recall the actual delivery itself. I</p> <p>20 don't participate in the actual delivery of an</p> <p>21 aircraft from a physical perspective in</p> <p>22 delivering the aircraft. They can float day by</p> <p>23 day.</p> <p>24 Q. I'm going to show you what we will</p> <p>25 mark as Exhibit 1.</p>	<p style="text-align: right;">Page 16</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 March 14, 2020.</p> <p>3 Would you agree that these appear to</p> <p>4 be texts that you and perhaps others received</p> <p>5 from Spencer Thwaytes on that day?</p> <p>6 A. Yes, that's my number at the top of</p> <p>7 the page.</p> <p>8 Q. Okay. That 720 number, is that your</p> <p>9 cell phone number?</p> <p>10 A. Yes.</p> <p>11 Q. And the first text sent by</p> <p>12 Mr. Thwaytes, again on March 14 says, "We're</p> <p>13 dealing with an issue on the Monday aircraft</p> <p>14 delivery that I need to update you on. Let me</p> <p>15 know when you have a few minutes to talk."</p> <p>16 He refers to a Monday aircraft</p> <p>17 delivery. Is that a reference to the first</p> <p>18 delivery under the Framework Agreement which we</p> <p>19 just discussed took place on the 16th of March?</p> <p>20 A. I assume so. Yeah, I think that was</p> <p>21 the pending delivery at the time.</p> <p>22 Q. Do you remember what was the issue</p> <p>23 here that Mr. Thwaytes wanted to talk to you</p> <p>24 about?</p> <p>25 A. My recollection is that this was the</p>
<p style="text-align: right;">Page 15</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 MR. BUTLER: So we will call this</p> <p>3 Dempsey Exhibit 1. And Gege is going to</p> <p>4 put it up on the screen so that you can</p> <p>5 see it.</p> <p>6 (Dempsey Exhibit 1, Text Messages,</p> <p>7 Bates Stamped FRONTIER0003467, marked for</p> <p>8 identification.)</p> <p>9 Q. Mr. Dempsey because we have to do</p> <p>10 this remotely, it's a little less than ideal.</p> <p>11 If we were together in a room, I'd hand you the</p> <p>12 document and you can see the whole thing, but</p> <p>13 we can only show you a portion of it on the</p> <p>14 screen.</p> <p>15 But if you need to see any other</p> <p>16 portion, please ask and Gege will move it</p> <p>17 around to any particular location that you</p> <p>18 direct.</p> <p>19 MR. BUTLER: Dempsey Exhibit 1 is</p> <p>20 bearing Bates number FRONTIER3467 -- and,</p> <p>21 I'm sorry. It's a one-page document. So</p> <p>22 that's the total Bates number associated</p> <p>23 with this.</p> <p>24 Q. Mr. Dempsey, this appears to be a</p> <p>25 set of text messages from Spencer Thwaytes on</p>	<p style="text-align: right;">Page 17</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 first aircraft that was delivering under -- the</p> <p>3 tariff scheme was coming in around that time,</p> <p>4 and my recollection is that this aircraft --</p> <p>5 there was an appetite by AMCK and Airbus to</p> <p>6 deliver this aircraft prior to the institution</p> <p>7 of the tariff scheme between the United States</p> <p>8 and Europe, and I think that's the issue.</p> <p>9 Q. I just wanted to ask about the</p> <p>10 tariff scheme.</p> <p>11 Can you explain what that is?</p> <p>12 A. Yeah, there was, under the Trump</p> <p>13 Administration, there was the institution of</p> <p>14 tariffs on new aircraft deliveries that was</p> <p>15 being brought in around that time.</p> <p>16 Q. And was that a last-minute issue</p> <p>17 that needed to be addressed with AMCK?</p> <p>18 A. I wasn't dealing with it. The team</p> <p>19 was dealing with it, but they were -- I think</p> <p>20 this text is notifying me that -- of some issue</p> <p>21 relating to it or how they're handling it.</p> <p>22 Q. Okay. The next text message on this</p> <p>23 page from Mr. Thwaytes says, "I'm on with Jane</p> <p>24 from Accipiter."</p> <p>25 Do you see that?</p>

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<p style="text-align: right;">Page 22</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 making, yes.</p> <p>3 Q. Who else was involved in the</p> <p>4 decision making?</p> <p>5 A. I don't have a list of people, but</p> <p>6 there was our officer team effectively.</p> <p>7 Q. By officer team you mean the C-suite</p> <p>8 essentially; is that right?</p> <p>9 A. Yes, the senior management team of</p> <p>10 the company.</p> <p>11 Q. And I think you answered this</p> <p>12 already, but apart from knowing that it was</p> <p>13 around this time frame, do you have any</p> <p>14 recollection of a particular time or a</p> <p>15 particular meeting at which that decision was</p> <p>16 made, particularly the decision to seek rent</p> <p>17 deferrals from all of the lessors?</p> <p>18 A. I don't. I don't have an exact -- I</p> <p>19 cannot pinpoint an exact time and date. It was</p> <p>20 around this time.</p> <p>21 Q. Understood. Thank you. I'm sorry.</p> <p>22 I don't mean to interrupt you. I thought you</p> <p>23 were finished with your answer.</p> <p>24 MR. BUTLER: I would like to mark</p> <p>25 the next exhibit, which we are going to</p>	<p style="text-align: right;">Page 24</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 A. I need to read it to answer that</p> <p>3 question. (Document review.)</p> <p>4 Yes, you can see the request in</p> <p>5 point 1.</p> <p>6 Q. And were similar letters sent to</p> <p>7 Frontier's other lessors on or about March 16,</p> <p>8 2020?</p> <p>9 A. I didn't send them out, but my</p> <p>10 recollection is that every lessor or largely</p> <p>11 every lessor received one of these. I think</p> <p>12 every lessor received one.</p> <p>13 Q. Were you involved in drafting this</p> <p>14 letter or the template for this letter?</p> <p>15 A. No.</p> <p>16 Q. Do you think that you reviewed it</p> <p>17 before it was sent?</p> <p>18 A. I did see it before it was sent,</p> <p>19 yes.</p> <p>20 Q. I would like to direct your</p> <p>21 attention to the second page of this exhibit.</p> <p>22 It says FRONTIER241 at the bottom.</p> <p>23 And the language just below the</p> <p>24 number 1 and number 2, it says, "The above</p> <p>25 concessions would be documented in a mutually</p>
<p style="text-align: right;">Page 23</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 mark as Dempsey Exhibit 2.</p> <p>3 (Dempsey Exhibit 2, E-Mail With</p> <p>4 Attachment, Bates Stamped FRONTIER0000240</p> <p>5 through 242, marked for identification.)</p> <p>6 MR. BUTLER: It's a three-page</p> <p>7 document bearing Bates numbers FRONTIER240</p> <p>8 to 242.</p> <p>9 Q. And, Mr. Dempsey, this is a cover</p> <p>10 e-mail from Spencer Thwaytes, dated Monday,</p> <p>11 March 16, and it's followed by a letter from</p> <p>12 Mr. Thwaytes also dated March 16.</p> <p>13 MR. BUTLER: And, Gege, if you</p> <p>14 scroll down.</p> <p>15 Q. It looks like you are cc'd at the</p> <p>16 bottom of this letter.</p> <p>17 My first question is, do you</p> <p>18 recognize this letter?</p> <p>19 A. Can you scroll back to the top,</p> <p>20 please? (Document review.)</p> <p>21 I mean, I wasn't the author of the</p> <p>22 document, but I do recognize it, yes.</p> <p>23 Q. Is this the request for rent</p> <p>24 deferral that Frontier sent to AMCK on</p> <p>25 March 16, 2020?</p>	<p style="text-align: right;">Page 25</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 agreed deferral and concession agreement."</p> <p>3 Was it your expectation, at this</p> <p>4 time, Mr. Dempsey, that any deferral that might</p> <p>5 be agreed with AMCK would be documented in a</p> <p>6 formal agreement?</p> <p>7 A. That's what we were endeavoring to</p> <p>8 do.</p> <p>9 Q. If you look a little bit further up</p> <p>10 at the two numbered points, number 1 says --</p> <p>11 well, just above that it says, "Accordingly, we</p> <p>12 request the prompt implementation of the</p> <p>13 following measures." And then number 1 says,</p> <p>14 "All lease rent payments due between the date</p> <p>15 of this letter and June 30, 2020, will be</p> <p>16 deferred."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. So was the initial request from</p> <p>20 Frontier then to request a deferral of all rent</p> <p>21 from the date of this letter, March 16, through</p> <p>22 June 30, 2020?</p> <p>23 A. The intent of the letter was to</p> <p>24 effectively receive a three-month deferral in</p> <p>25 rent expiring on June 30 and that it would be</p>

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<p style="text-align: right;">Page 26</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 repaid over nine months thereafter.</p> <p>3 Q. So in your mind, you thought of this</p> <p>4 as basically a three-month rent deferral even</p> <p>5 though the letter might ask for slightly more</p> <p>6 than that; is that correct?</p> <p>7 A. Point 1 lays out that, you know, we</p> <p>8 were looking for -- we were effectively looking</p> <p>9 to receive a three-month rent deferral at that</p> <p>10 time.</p> <p>11 So it depends on the leasing</p> <p>12 company. Some rent may have been paid in</p> <p>13 advance of the issuance of this letter, but the</p> <p>14 intent was to effectively get three months rent</p> <p>15 deferred and then pay it back over nine months.</p> <p>16 Q. And was that rent deferral to be</p> <p>17 applicable to all of the leases with AMCK?</p> <p>18 A. I assume so, yes. I don't think the</p> <p>19 letter specifies excluding any leases.</p> <p>20 Q. And we talked about the 14 leases</p> <p>21 that existed at the beginning of March.</p> <p>22 Do you know whether, by the time of</p> <p>23 this letter, that that fifteenth Lease</p> <p>24 Agreement had been entered by Frontier?</p> <p>25 A. Sorry. Can you repeat that? I</p>	<p style="text-align: right;">Page 28</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 plus an interest rate that would be applicable</p> <p>3 to the deferred amounts?</p> <p>4 A. That's correct.</p> <p>5 Q. Are those kind of the key components</p> <p>6 of a rent deferral agreement?</p> <p>7 A. The key components are the laid out</p> <p>8 in this letter.</p> <p>9 Q. And I'm asking you, sir, are those</p> <p>10 the three key components in your mind?</p> <p>11 A. If you can see, point 1, the request</p> <p>12 was to defer rent to the June 30. There was</p> <p>13 another request to return the security deposit</p> <p>14 that existed on the lease, and we would repay</p> <p>15 it over nine months in the next paragraph, and</p> <p>16 that we would agree to an interest rate.</p> <p>17 Q. In your mind, are there any other</p> <p>18 material terms to a rent deferral agreement?</p> <p>19 A. I mean, this is our proposal to the</p> <p>20 leasing company. There are many terms in a</p> <p>21 lease that are not dealt with here. This was</p> <p>22 our proposal to receive rent relief from our</p> <p>23 lessors.</p> <p>24 Q. I understand that. And we talked</p> <p>25 about three of the important components of the</p>
<p style="text-align: right;">Page 27</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 didn't hear the date.</p> <p>3 Q. My question is, as of the time of</p> <p>4 this letter, we talked earlier about the 14</p> <p>5 leases and then there was another delivery on</p> <p>6 March 16.</p> <p>7 Was the intent of this letter to</p> <p>8 cover all 15 leases that existed at that time?</p> <p>9 A. Yeah, I think this was a letter that</p> <p>10 went out to every leasing company covering all</p> <p>11 our leases at that time.</p> <p>12 Q. Okay. And you talked about your</p> <p>13 understanding that this was a -- you were</p> <p>14 requesting a three-month deferral and a</p> <p>15 nine-month payback period.</p> <p>16 Did I hear that correctly?</p> <p>17 A. That was what our proposal was.</p> <p>18 Q. Was your proposal also to pay</p> <p>19 interest on the deferred rent?</p> <p>20 A. Yes, you can see it in the</p> <p>21 paragraph.</p> <p>22 Q. Okay. So in your mind, generally,</p> <p>23 the deferrals that you were requesting from</p> <p>24 lessors, did they involve a three-month period</p> <p>25 of deferral, some kind of period of repayment,</p>	<p style="text-align: right;">Page 29</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 deferral that you're requesting.</p> <p>3 My question, sir, is, are there any</p> <p>4 other important agreements that you were</p> <p>5 seeking from leasing companies at this time?</p> <p>6 A. I don't recall. I mean, this was</p> <p>7 the principal item that we were -- we had</p> <p>8 started to discuss with leasing companies in</p> <p>9 order to gain a relief.</p> <p>10 Q. Do you know who drafted this letter?</p> <p>11 A. I don't recall exactly who drafted</p> <p>12 it, but it would have been done by our treasury</p> <p>13 team in conjunction with our legal advisors.</p> <p>14 Q. And Frontier, at this time, sent a</p> <p>15 letter requesting a similar concession to all</p> <p>16 of its lessors, correct?</p> <p>17 A. Sorry. Can you repeat that?</p> <p>18 Q. My question was, is it true that</p> <p>19 Frontier sent a letter seeking this kind of</p> <p>20 rent deferral concession to all of its lessors</p> <p>21 at this time?</p> <p>22 A. Yes, that's my understanding.</p> <p>23 Q. In your mind, was there anything</p> <p>24 wrong with Frontier making this kind of request</p> <p>25 to all of its lessors?</p>

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<p style="text-align: right;">Page 30</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 A. I don't understand the context of</p> <p>3 your question. Could you clarify it?</p> <p>4 Q. My question, sir, is, do you</p> <p>5 personally think there was anything wrong with</p> <p>6 Frontier making a request for concessions under</p> <p>7 its Lease Agreements?</p> <p>8 MR. HOSENPUD: Objection, form.</p> <p>9 You can answer.</p> <p>10 A. No, I don't see any reason why we</p> <p>11 couldn't ask for a concession.</p> <p>12 Q. You didn't view this as a breach of</p> <p>13 the Lease Agreements to ask for this from the</p> <p>14 lessors, correct?</p> <p>15 A. No.</p> <p>16 Q. And I gather that the reason for</p> <p>17 asking for this kind of concession was the</p> <p>18 unusual circumstance of a global pandemic; is</p> <p>19 that right?</p> <p>20 A. Yes.</p> <p>21 Q. You must have viewed this as a</p> <p>22 reasonable request to be making considering the</p> <p>23 highly unusual circumstances of the pandemic;</p> <p>24 is that correct?</p> <p>25 A. Yes, there were many leasing</p>	<p style="text-align: right;">Page 32</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 whether they were affected at this point in the</p> <p>3 crisis. I think if they provided rent</p> <p>4 deferrals in a large scale to all of their</p> <p>5 customers, obviously, that would be dependent</p> <p>6 on the liquidity levels that they had at the</p> <p>7 time. But that was a decision for each of the</p> <p>8 leasing companies to make.</p> <p>9 Q. Did you come to understand, at some</p> <p>10 point after this time, that leasing companies</p> <p>11 were also affected by the COVID-19 pandemic?</p> <p>12 A. A lot of the leasing companies that</p> <p>13 we spoke to at that time promoted the fact that</p> <p>14 they had ample liquidity to manage through the</p> <p>15 COVID event.</p> <p>16 I mean, at this time, everybody</p> <p>17 believed it to be a relatively short event,</p> <p>18 maybe three, four months. And, hence, we</p> <p>19 designed our request to each of the leasing</p> <p>20 companies and to other suppliers with that in</p> <p>21 mind, and I think the leasing companies had a</p> <p>22 similar view of the world at that point.</p> <p>23 I mean, clearly that changed over</p> <p>24 time given the fact that the pandemic continued</p> <p>25 for much longer than three months.</p>
<p style="text-align: right;">Page 31</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 companies that were approaching us about this</p> <p>3 very issue. There were airlines doing this</p> <p>4 around the world. This was a common theme that</p> <p>5 occurred during the start of the pandemic.</p> <p>6 Q. And is it correct to say that the</p> <p>7 global pandemic, at this time, was affecting</p> <p>8 virtually everyone in your industry?</p> <p>9 A. I mean, I can't comment for other</p> <p>10 airlines, but it certainly had an impact in</p> <p>11 airlines around the world.</p> <p>12 Q. Did it also have an impact on</p> <p>13 leasing companies around the world?</p> <p>14 A. I'm not in the position to answer</p> <p>15 that.</p> <p>16 Q. You don't know one way or the other</p> <p>17 whether the COVID-19 pandemic impacted the</p> <p>18 business of leasing companies?</p> <p>19 A. I'm not in the business of running a</p> <p>20 leasing company, so I'm not -- I don't have the</p> <p>21 expertise to answer that.</p> <p>22 Q. Was it your understanding, at this</p> <p>23 time, that leasing companies were not affected</p> <p>24 by the COVID-19 pandemic?</p> <p>25 A. At this time, I am unsure as to</p>	<p style="text-align: right;">Page 33</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Q. And because of that pandemic,</p> <p>3 Frontier requested a concession from Frontier</p> <p>4 on its existing Lease Agreements in the form of</p> <p>5 a rent deferral, correct?</p> <p>6 MR. HOSENPUD: Object to the form,</p> <p>7 misstates the record, but you can answer.</p> <p>8 You used Frontier twice, Jeff.</p> <p>9 MR. BUTLER: That's quite possible,</p> <p>10 so let me restate the question. I'm sorry</p> <p>11 if I'm confusing my parties.</p> <p>12 BY MR. BUTLER:</p> <p>13 Q. The question, sir, is, at this time,</p> <p>14 is it correct that because of the pandemic</p> <p>15 Frontier was seeking a concession from AMCK in</p> <p>16 the form of a rent deferral?</p> <p>17 A. Yes.</p> <p>18 Q. And in response, am I correct to</p> <p>19 understand that AMCK made a request to Frontier</p> <p>20 for a concession under the Framework Agreement?</p> <p>21 A. Yes, they asked -- they asked -- not</p> <p>22 at this time. I think around this time, maybe</p> <p>23 some day subsequent, there was -- a negotiation</p> <p>24 began around the Framework Agreement and our</p> <p>25 rent deferral.</p>

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<p style="text-align: right;">Page 34</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Q. So you made a request for</p> <p>3 concessions under the Lease Agreements, and at</p> <p>4 some point later, AMCK made requests --</p> <p>5 requests for concessions under the Framework</p> <p>6 Agreement; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. And was there anything wrong with</p> <p>9 AMCK in the circumstances of the pandemic</p> <p>10 making a request for concessions to Frontier?</p> <p>11 A. We were asking AMCK to honor their</p> <p>12 agreement with us because we had a binding</p> <p>13 agreement with AMCK, and we had impending</p> <p>14 aircraft deliveries that we had to satisfy with</p> <p>15 Airbus. And so we did ask AMCK to honor that</p> <p>16 binding agreement.</p> <p>17 Q. So you did think there was something</p> <p>18 wrong with AMCK asking Frontier for concessions</p> <p>19 under the Framework Agreement; is that correct?</p> <p>20 A. Subsequent to them asking us for</p> <p>21 concessions under the Framework Agreement, it</p> <p>22 became clear to us that AMCK wanted to adjust</p> <p>23 our binding agreement, and we asked them to</p> <p>24 honor that.</p> <p>25 Q. Well, you referred to binding</p>	<p style="text-align: right;">Page 36</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 (Dempsey Exhibit 3, E-Mail, Bates</p> <p>3 Stamped AMCK16595, marked for</p> <p>4 identification.)</p> <p>5 Q. And this document appears to be a --</p> <p>6 an e-mail dated April 3, 2020, from Paul</p> <p>7 Sheridan of AMCK to you, Mr. Dempsey.</p> <p>8 Do you recall receiving this e-mail?</p> <p>9 A. I don't recall receiving it, but I'm</p> <p>10 sure I did.</p> <p>11 Q. Yeah, you don't have any reason to</p> <p>12 doubt that you received this e-mail on April 3,</p> <p>13 2020?</p> <p>14 A. No, it's addressed to me.</p> <p>15 Q. Okay. I just want to direct your</p> <p>16 attention to the first paragraph, or I guess</p> <p>17 it's the second paragraph that begins</p> <p>18 "unfortunately".</p> <p>19 In this e-mail, was Mr. Sheridan</p> <p>20 telling you that he was -- that AMCK was</p> <p>21 willing to grant the three-month rent deferral</p> <p>22 that you proposed, but strictly on the basis</p> <p>23 that the next deliveries under the Framework</p> <p>24 Agreement are suspended for six months?</p> <p>25 A. (Document review.)</p>
<p style="text-align: right;">Page 35</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 agreement.</p> <p>3 Weren't the Lease Agreements between</p> <p>4 Frontier and AMCK binding agreements?</p> <p>5 A. Yes.</p> <p>6 Q. But you asked for concessions with</p> <p>7 respect to those agreements, right?</p> <p>8 A. Yes.</p> <p>9 Q. And the Framework Agreement was also</p> <p>10 a binding agreement, correct?</p> <p>11 A. Correct.</p> <p>12 Q. And AMCK asked you in return for</p> <p>13 concessions under that agreement, correct?</p> <p>14 A. They did.</p> <p>15 Q. My question, sir, is, was there</p> <p>16 anything wrong with AMCK making that request?</p> <p>17 MR. HOSENPUD: Object to the form of</p> <p>18 the question.</p> <p>19 You can answer.</p> <p>20 A. No, I don't see any reason that they</p> <p>21 cannot ask for a concession.</p> <p>22 Q. Let me show you the next exhibit.</p> <p>23 MR. BUTLER: I have marked, as</p> <p>24 Dempsey Exhibit 3, a document bearing</p> <p>25 Bates number AMCK16595.</p>	<p style="text-align: right;">Page 37</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 That is what he asked.</p> <p>3 Q. So is this the first e-mail -- or</p> <p>4 was this an e-mail from AMCK where, in response</p> <p>5 to your request for a concession, AMCK asked</p> <p>6 you for a concession of their own?</p> <p>7 A. I don't recall if this was the first</p> <p>8 request, but this is consistent with my</p> <p>9 recollection that they started asking for a</p> <p>10 suspension in deliveries, something that we</p> <p>11 could not achieve, given we did not have</p> <p>12 control of the delivery of aircraft timing with</p> <p>13 Airbus.</p> <p>14 Q. Well, whether you could achieve it</p> <p>15 or not, it was a request from Mr. Sheridan for</p> <p>16 Frontier to give AMCK something in exchange for</p> <p>17 what Frontier was requesting from AMCK,</p> <p>18 correct?</p> <p>19 A. That's correct.</p> <p>20 Q. And at the bottom of this e-mail,</p> <p>21 below the place where it says, "Kind Regards,</p> <p>22 Paul," there is some text. And I don't need to</p> <p>23 read the text, but can you tell me your</p> <p>24 understanding of what this text meant?</p> <p>25 A. Which part of the e-mail are you</p>

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<p style="text-align: right;">Page 38</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 talking about?</p> <p>3 Q. I'm talking about the part that</p> <p>4 begins, "For the avoidance of doubt" -- why</p> <p>5 don't we strike that. I'll just read it so</p> <p>6 it's very clear.</p> <p>7 So at the bottom of the e-mail it</p> <p>8 says, "For the avoidance of doubt, this e-mail</p> <p>9 is for discussion purposes only. This e-mail</p> <p>10 and any subsequent discussions or</p> <p>11 correspondence we may have with you are not</p> <p>12 intended to create (and do not create) any</p> <p>13 binding obligations on the part of AMCK or any</p> <p>14 of its affiliates."</p> <p>15 First, did I read that correctly?</p> <p>16 A. Yes.</p> <p>17 Q. And what did you understand that to</p> <p>18 mean?</p> <p>19 A. Exactly what it says.</p> <p>20 Q. And in your words, what does it say?</p> <p>21 A. It basically says that this</p> <p>22 correspondence does not intend to create a</p> <p>23 binding obligation on AMCK. I mean, I can</p> <p>24 reread it for if you want, but that's</p> <p>25 effectively what it says.</p>	<p style="text-align: right;">Page 40</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 expected some kind of writing, some kind of</p> <p>3 final writing to reflect the deferral</p> <p>4 agreement?</p> <p>5 A. Well, we had worked with Paul</p> <p>6 Sheridan for some time, and given that he is</p> <p>7 the chief executive of the leasing company, we</p> <p>8 also would have managed this on a relationship</p> <p>9 perspective. We had a very good relationship</p> <p>10 with AMCK, and we would have taken his word to</p> <p>11 be something that we could rely upon, given</p> <p>12 that he is the chief executive of AMCK.</p> <p>13 Q. Well, I'm sure your confidence is</p> <p>14 well placed in Mr. Sheridan, but my question,</p> <p>15 sir, is, did you expect a rent deferral</p> <p>16 agreement with AMCK to be embodied in some kind</p> <p>17 of final writing?</p> <p>18 A. Yes, we tended to be flexible with</p> <p>19 the format that the leasing companies wanted to</p> <p>20 agree with us.</p> <p>21 MR. BUTLER: Let me show you the</p> <p>22 next exhibit. I'm showing document</p> <p>23 FRONTIER310 to 311.</p> <p>24 (Dempsey Exhibit 4, E-Mail Chain,</p> <p>25 Bates Stamped FRONTIER310 through 311,</p>
<p style="text-align: right;">Page 39</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Q. And did you understand it to mean</p> <p>3 that at the time you received this e-mail?</p> <p>4 A. We were -- we were negotiating at</p> <p>5 that time, and so -- in relation to the rent</p> <p>6 deferral. We were trying, at that point, to</p> <p>7 achieve concessions from Airbus to satisfy</p> <p>8 AMCK's request.</p> <p>9 And so at that point in time, we</p> <p>10 were attempting to achieve something that</p> <p>11 worked for both parties. So this certainly was</p> <p>12 not a final agreement.</p> <p>13 Q. And did you understand that any</p> <p>14 final agreement would be in writing?</p> <p>15 A. Yes. Not necessarily in writing,</p> <p>16 but certainly agreed in some form. And, you</p> <p>17 know, given our previous letter, we would have</p> <p>18 been keen to paper the rent deferral request</p> <p>19 that we put out to each of our leasing</p> <p>20 companies. But some leasing companies did it</p> <p>21 through e-mail, some leasing companies did it</p> <p>22 through a formal agreement. There wasn't</p> <p>23 one-size-fits-all for each of the requests at</p> <p>24 that time.</p> <p>25 Q. Is it fair to say, though, that you</p>	<p style="text-align: right;">Page 41</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 marked for identification.)</p> <p>3 Q. Mr. Dempsey, this appears to be your</p> <p>4 response to Mr. Sheridan, dated April 6, 2020.</p> <p>5 Is that your understanding as well?</p> <p>6 A. I mean, you would have to scroll</p> <p>7 down just to show me that. (Document review.)</p> <p>8 Yes, as I said earlier, part of his</p> <p>9 request to us was something that we did not</p> <p>10 have control over. And you can see in my</p> <p>11 response where we reached out to Airbus to see</p> <p>12 if they could satisfy that request, and they</p> <p>13 said no, pretty bluntly.</p> <p>14 Q. So this April 6 e-mail, which we</p> <p>15 have marked as Exhibit 6, this is your response</p> <p>16 to Mr. Sheridan's April 3 e-mail; is that</p> <p>17 correct?</p> <p>18 A. That's right.</p> <p>19 Q. And you write at the beginning, "Hi</p> <p>20 Paul, this is very disappointing news."</p> <p>21 Why was his response disappointing?</p> <p>22 A. Because he was asking us to defer</p> <p>23 aircraft deliveries for six months.</p> <p>24 Q. And did you hope that he would just</p> <p>25 agree to your deferral request without asking</p>

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<p style="text-align: right;">Page 42</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 for anything in return?</p> <p>3 A. Did I hope? Yes.</p> <p>4 Q. Is there any other reason</p> <p>5 Mr. Sheridan's response was disappointing to</p> <p>6 you?</p> <p>7 A. Well, we couldn't satisfy his</p> <p>8 request. We had no control over that. So yes,</p> <p>9 that is disappointing because we had no</p> <p>10 mechanism to institute what he was asking us to</p> <p>11 do.</p> <p>12 Q. Did you believe, at this time, that</p> <p>13 you had no way to get -- to delay the</p> <p>14 deliveries under the aircraft Purchase</p> <p>15 Agreement?</p> <p>16 A. At this point, we really didn't know</p> <p>17 what was feasible with Airbus. All we knew,</p> <p>18 after Paul asking for a six-month deferral, was</p> <p>19 that Airbus said no.</p> <p>20 And we were working very hard to try</p> <p>21 and get relief from everybody, as I mentioned</p> <p>22 earlier, all of our suppliers, including</p> <p>23 Airbus, in relation to managing the pandemic,</p> <p>24 and one of those tools was to ask them to move</p> <p>25 aircraft deliveries. And Airbus was not</p>	<p style="text-align: right;">Page 44</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 bluntly said no.</p> <p>3 Q. Well, I'm asking something more</p> <p>4 specific. I'm asking what you personally did.</p> <p>5 Did you personally ask Airbus for a</p> <p>6 six-month delivery delay in the aircraft</p> <p>7 covered by the Framework Agreement?</p> <p>8 A. Yes, we asked Airbus to satisfy this</p> <p>9 request.</p> <p>10 Q. My question, sir, was directed at</p> <p>11 you personally.</p> <p>12 A. I personally did it, yes.</p> <p>13 Q. You personally asked for a six-month</p> <p>14 delay; is that correct?</p> <p>15 A. We were in discussions with Airbus</p> <p>16 in managing a fleet program that encompasses</p> <p>17 six or seven years, and part of that discussion</p> <p>18 was trying to get relief for AMCK.</p> <p>19 Q. And my question, sir, is, did you</p> <p>20 ask for a six-month delay or did you ask for</p> <p>21 something else?</p> <p>22 A. I asked them to move the aircraft</p> <p>23 out of 2020, so that would have been greater</p> <p>24 than a six-month delay.</p> <p>25 Q. And when did you make that request</p>
<p style="text-align: right;">Page 43</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 interested.</p> <p>3 Q. Well, you received this e-mail from</p> <p>4 Mr. Sheridan on April 3, and then you responded</p> <p>5 on April 6.</p> <p>6 Between those dates, did you reach</p> <p>7 out to Airbus and ask them whether a six-month</p> <p>8 delay in the deliveries relating to AMCK would</p> <p>9 be feasible?</p> <p>10 A. We were speaking to Airbus</p> <p>11 regularly, yes.</p> <p>12 Q. Well, did you personally communicate</p> <p>13 with Airbus regarding --</p> <p>14 A. I did.</p> <p>15 Q. -- delivery delays?</p> <p>16 A. Yes, I did.</p> <p>17 Q. And did you personally reach out to</p> <p>18 Airbus during this -- after receiving this</p> <p>19 e-mail from Mr. Sheridan to determine whether</p> <p>20 Airbus would be agreeable to a six-month delay</p> <p>21 in the upcoming deliveries?</p> <p>22 A. We sought their input into what they</p> <p>23 could do with us in relation to moving aircraft</p> <p>24 deliveries inclusive of Paul's request. And</p> <p>25 within my e-mail, you can see that they have</p>	<p style="text-align: right;">Page 45</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 to Airbus?</p> <p>3 A. In this period. Prior to this</p> <p>4 e-mail.</p> <p>5 Q. Who did you make that request to?</p> <p>6 A. I had a telephone conversation with</p> <p>7 our relationship manager -- well, my</p> <p>8 counterpart, Christopher Jones.</p> <p>9 Q. And what did Mr. Jones say in</p> <p>10 response?</p> <p>11 A. No.</p> <p>12 Q. Did he say anything else?</p> <p>13 A. He said it wasn't feasible and that</p> <p>14 the aircraft are built and you need to turn up</p> <p>15 and deliver them.</p> <p>16 Q. Going back to Exhibit 4, you go on</p> <p>17 to say, in your e-mail to Mr. Sheridan, this is</p> <p>18 beginning in the middle of the second line, "As</p> <p>19 a result, I can only deduce that you will</p> <p>20 finance the aircraft deliveries and honor your</p> <p>21 commitment to Frontier if we do not put a rent</p> <p>22 deferral in place."</p> <p>23 Did I read your e-mail correctly?</p> <p>24 A. (Document review.)</p> <p>25 I said, "I can only deduce that you</p>

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<p style="text-align: right;">Page 62</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 A. I don't recall him directly</p> <p>3 answering that question, but maybe you have</p> <p>4 evidence to the contrary.</p> <p>5 Q. So your recollection, as you sit</p> <p>6 here today, is that you asked Mr. Sheridan a</p> <p>7 direct question of whether -- whether AMCK</p> <p>8 would finance the upcoming deliveries under the</p> <p>9 Framework Agreement, and you did not get an</p> <p>10 affirmative answer from Mr. Sheridan; is that</p> <p>11 your memory?</p> <p>12 A. That is correct. My memory is we</p> <p>13 got a conditional answer based on certain</p> <p>14 conditions that they wanted. So I never</p> <p>15 received comfort that they would turn up even</p> <p>16 if I paid the rent that was due on those</p> <p>17 aircraft.</p> <p>18 Q. And did that make you feel that you</p> <p>19 should not pay the rent?</p> <p>20 A. No, we continued to negotiate</p> <p>21 because, as I said earlier, we were working</p> <p>22 with our partner in trying to find a solution</p> <p>23 with them, and we continued to do so.</p> <p>24 Q. After April 6 when you got a</p> <p>25 short-term grace period from Mr. Sheridan and</p>	<p style="text-align: right;">Page 64</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 rent that was due under the Lease Agreements?</p> <p>3 A. It didn't.</p> <p>4 MR. BUTLER: David, this would be a</p> <p>5 perfectly fine time for a break.</p> <p>6 MR. HOSENPUD: All right. Sounds</p> <p>7 good. Let's go off the record.</p> <p>8 (Recess taken.)</p> <p>9 BY MR. BUTLER:</p> <p>10 Q. Mr. Dempsey, before the break, I was</p> <p>11 asking you about Exhibits 5 and 6, your text</p> <p>12 messages on April 6 involving you and</p> <p>13 Mr. Fanning.</p> <p>14 MR. BUTLER: I want to put up on the</p> <p>15 screen, Gege, the next side by side.</p> <p>16 So this should be a side by side of</p> <p>17 FRONTIER3481 and 3489, which are two pages</p> <p>18 from Exhibits 5 and 6.</p> <p>19 Q. And I want to direct your attention</p> <p>20 to your texts on the left side of the screen</p> <p>21 right in the middle of the page.</p> <p>22 MR. BUTLER: Gege, if you can zoom</p> <p>23 in.</p> <p>24 Q. There is a text from you at</p> <p>25 11:28 a.m. Yeah, at the top there, and it</p>
<p style="text-align: right;">Page 63</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 you stopped paying the rent, did you ever --</p> <p>3 did you consider just going ahead and paying</p> <p>4 the rent as a way of forcing AMCK to comply</p> <p>5 with the Framework Agreement?</p> <p>6 A. I don't recall -- I don't recall. I</p> <p>7 mean, I think the situation developed into</p> <p>8 something different when Mobile got shutdown</p> <p>9 for April, which is where the aircraft was</p> <p>10 delivering.</p> <p>11 MR. HOSENPUD: Pardon me for</p> <p>12 interrupting. Is this a good time for</p> <p>13 your break?</p> <p>14 MR. BUTLER: Let me just follow up</p> <p>15 on that last question because he has</p> <p>16 raised a new issue.</p> <p>17 Q. So you referred to Mobile, Alabama.</p> <p>18 What were you talking about?</p> <p>19 A. So the aircraft was delivering in</p> <p>20 Mobile, Alabama.</p> <p>21 Q. The next delivery?</p> <p>22 A. The next delivery in the sequence</p> <p>23 with AMCK.</p> <p>24 Q. And how did that affect your</p> <p>25 thinking about whether to go ahead and pay the</p>	<p style="text-align: right;">Page 65</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 seems to say -- it looks like it says, "Get</p> <p>3 immediate relief from Accipiter from today's</p> <p>4 payment. Why don't you call them?"</p> <p>5 Did I read that portion of your text</p> <p>6 correctly?</p> <p>7 A. Sorry. Let me read it. It says,</p> <p>8 "Get immediate relief from Accipiter from</p> <p>9 today's payment. Why don't you call them? The</p> <p>10 press release says April 27."</p> <p>11 Q. And my question, sir, is, do you</p> <p>12 recall giving that instruction to Mr. Fanning</p> <p>13 on April 6?</p> <p>14 A. I don't recall, but it's a text from</p> <p>15 me, so...</p> <p>16 Q. So from this text, it does appear</p> <p>17 that you gave that instruction to Mr. Fanning,</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And Mr. Fanning responds at</p> <p>21 11:31, if we move over to the right side of</p> <p>22 this. He says, "OK. I sent Jane a text. I</p> <p>23 will speak with her hopefully soon."</p> <p>24 Did I read Mr. Fanning's response</p> <p>25 correctly?</p>

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<p style="text-align: right;">Page 66</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Now, I want to show you some</p> <p>4 subsequent texts. We are going to show you</p> <p>5 side by side FRONTIER3482 and FRONTIER3489.</p> <p>6 It's the second page of Exhibit 6 and the third</p> <p>7 page of Exhibit 5.</p> <p>8 And at the top of the text from</p> <p>9 Mr. Fanning, it looks like at 1:11 p.m. on</p> <p>10 April 6, he writes, "Paul and Jane are</p> <p>11 available in 20 minutes for a call."</p> <p>12 Do you see that?</p> <p>13 A. Yeah.</p> <p>14 Q. And then going to the other side of</p> <p>15 the screen, it looks like you respond at</p> <p>16 1:13 p.m.</p> <p>17 MR. BUTLER: You have to go down a</p> <p>18 little bit to find Mr. Dempsey's response.</p> <p>19 Right there.</p> <p>20 Q. It looks like you respond, "I can't</p> <p>21 make it. You have the call."</p> <p>22 Did I read that correctly?</p> <p>23 A. Yes.</p> <p>24 Q. And then going back to Mr. Fanning's</p> <p>25 text on the other side of the page, it looks</p>	<p style="text-align: right;">Page 68</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 responding to his texts?</p> <p>3 A. I think so, yeah.</p> <p>4 Q. Okay. Let me show you the next</p> <p>5 exhibit.</p> <p>6 MR. BUTLER: I'm marking, as Dempsey</p> <p>7 Exhibit 7, a document bearing Bates</p> <p>8 numbers FRONTIER251 to 253.</p> <p>9 (Dempsey Exhibit 7, E-Mail Chain,</p> <p>10 Bates Stamped FRONTIER0000251 through 253,</p> <p>11 marked for identification.)</p> <p>12 Q. And this appears to be -- well, if</p> <p>13 you look at the second e-mail in this document,</p> <p>14 it appears to be an e-mail from Paul Sheridan</p> <p>15 to you, dated April 6, 2020.</p> <p>16 And my first question is, sir, did</p> <p>17 you receive this e-mail from Mr. Sheridan on</p> <p>18 April 6?</p> <p>19 MR. HOSENPUD: Counsel, are you</p> <p>20 referring to the second e-mail in the</p> <p>21 middle?</p> <p>22 MR. BUTLER: Correct.</p> <p>23 MR. HOSENPUD: That looks like it is</p> <p>24 Mr. Dempsey to Mr. Sheridan. I am not</p> <p>25 referring to the very first one.</p>
<p style="text-align: right;">Page 67</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 like at 1:38 p.m., so about a little more than</p> <p>3 half an hour later, he writes to you and says,</p> <p>4 "Paul Sheridan will sending your an e-mail</p> <p>5 deferring all rent payments for ten business</p> <p>6 days to give us room to work out a solution."</p> <p>7 Did I read that text from</p> <p>8 Mr. Fanning correctly?</p> <p>9 A. Yes.</p> <p>10 Q. And do you recall getting that</p> <p>11 message from Mr. Fanning that Paul Sheridan had</p> <p>12 agreed to a ten-business day grace period?</p> <p>13 A. I recall the ten-business day grace</p> <p>14 period, yeah. I mean, the text itself -- I</p> <p>15 mean...</p> <p>16 Q. Okay. And just going back to your</p> <p>17 texts on the other side of the page to close</p> <p>18 out the discussion, it looks like you respond</p> <p>19 at 1:39 p.m. and you say, "Great."</p> <p>20 Is that your understanding as well?</p> <p>21 A. Yes, but I'm not sure if this was in</p> <p>22 response to his text or not.</p> <p>23 Q. Okay. Well, his text was at</p> <p>24 1:38 p.m. and your text is at 1:39 p.m. From</p> <p>25 those time stamps, would you say you're</p>	<p style="text-align: right;">Page 69</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 MR. BUTLER: Well, let me see if the</p> <p>3 witness can clarify this.</p> <p>4 Q. Looking at the second e-mail --</p> <p>5 MR. HOSENPUD: Oh, if you're</p> <p>6 focusing on the full e-mail below the</p> <p>7 Fanning to Sharath, you are correct. I</p> <p>8 thought you were referring to the one in</p> <p>9 the center below this e-mail that's</p> <p>10 appearing.</p> <p>11 MR. BUTLER: Why don't we blow up</p> <p>12 the e-mail that I'm talking about, Gege,</p> <p>13 so it's clear for the witness.</p> <p>14 BY MR. BUTLER:</p> <p>15 Q. You see there is a top e-mail where</p> <p>16 you are forwarding this e-mail to</p> <p>17 Mr. Sashikumar? So I'm referring to the one</p> <p>18 below that from Mr. Sheridan to you, dated</p> <p>19 April 6, 2020.</p> <p>20 MR. HOSENPUD: To clarify the</p> <p>21 record, you just misspoke. Mr. Fanning is</p> <p>22 forwarding the e-mail to Mr. Sashikumar</p> <p>23 not Mr. Sheridan.</p> <p>24 MR. BUTLER: I see. Okay. Let me</p> <p>25 strike that and start over, then.</p>

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<p style="text-align: right;">Page 70</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 MR. HOSENPUD: Thank you.</p> <p>3 Q. Mr. Dempsey, it looks like you can</p> <p>4 ignore the top e-mail where your colleague,</p> <p>5 Mr. Fanning, is forwarding this e-mail. I want</p> <p>6 to focus your attention on the second e-mail on</p> <p>7 this page, which is an e-mail from Paul</p> <p>8 Sheridan to you dated, Monday, April 6.</p> <p>9 Do you see that?</p> <p>10 A. I see it.</p> <p>11 Q. Did you receive this e-mail from</p> <p>12 Mr. Sheridan on that date?</p> <p>13 A. I would assume that I did.</p> <p>14 Q. You have no reason to doubt that you</p> <p>15 received it, correct?</p> <p>16 A. No.</p> <p>17 Q. In this e-mail, this is confirming</p> <p>18 the ten-day grace period that Mr. Fanning told</p> <p>19 you about and Mr. Sheridan clarifies here that</p> <p>20 the grace period will end on the 21st of April,</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. Let me show you the next exhibit.</p> <p>24 MR. BUTLER: I have marked, as</p> <p>25 Exhibit 8, a document bearing Bates</p>	<p style="text-align: right;">Page 72</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 financing that you wanted him to reconsider?</p> <p>3 A. That they wanted a concession on the</p> <p>4 binding deal that they had done with us.</p> <p>5 Q. So they asked for a concession. You</p> <p>6 wanted him to withdraw that request for a</p> <p>7 concession; is that right?</p> <p>8 A. Yes, because I didn't feel it was a</p> <p>9 balanced deal. They were asking us to entirely</p> <p>10 change a deal we had with them, recently</p> <p>11 agreed, in return for us deferring rent. I</p> <p>12 didn't believe that the deferral request with</p> <p>13 them was matched by a similar level of</p> <p>14 concession from us to them in relation to that</p> <p>15 deal. And so that was my issue.</p> <p>16 Q. You end your e-mail by saying,</p> <p>17 "Let's catch up tomorrow."</p> <p>18 Did you, in fact, have a telephone</p> <p>19 call with Mr. Sheridan on April 7, 2020?</p> <p>20 A. My recollection is we had a call</p> <p>21 shortly -- yes, on April 7.</p> <p>22 Q. Was that call something that was</p> <p>23 scheduled in advance or did one of you just</p> <p>24 call the other?</p> <p>25 A. I don't recall. I don't remember.</p>
<p style="text-align: right;">Page 71</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 numbers FRONTIER314 to 316.</p> <p>3 (Dempsey Exhibit 8, E-Mail Chain,</p> <p>4 Bates Stamped FRONTIER0000314 through 316,</p> <p>5 marked for identification.)</p> <p>6 Q. And you'll see that this document,</p> <p>7 which maybe I should have used in the first</p> <p>8 place, has the same e-mail from Mr. Sheridan in</p> <p>9 the middle of page, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And then up above, there is an</p> <p>12 e-mail where you respond to Mr. Sheridan.</p> <p>13 Did you send this e-mail to</p> <p>14 Mr. Sheridan on April 6, 2020?</p> <p>15 A. Yes. We had a subsequent call</p> <p>16 the -- I don't know -- I think it was the</p> <p>17 following day, but yes.</p> <p>18 Q. And in your e-mail you write, "Hi</p> <p>19 Paul, I appreciate this. As you know, this</p> <p>20 will continue to be a challenge with Airbus and</p> <p>21 I would hope that you reconsider your position</p> <p>22 on financing. Let's catch up tomorrow."</p> <p>23 Did I read your e-mail correctly?</p> <p>24 A. Yes.</p> <p>25 Q. What was Mr. Sheridan's position on</p>	<p style="text-align: right;">Page 73</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Q. So you don't recall whether you</p> <p>3 called him or he called you?</p> <p>4 A. I don't remember.</p> <p>5 Q. What was the reason for the call, in</p> <p>6 your mind?</p> <p>7 A. I wanted to discuss with him the</p> <p>8 fact that Mobile had been closed for April,</p> <p>9 that that would give them relief on delivering</p> <p>10 the aircraft in April. I felt that he should</p> <p>11 give us a longer rent deferral than ten days</p> <p>12 because it would take us longer than that to</p> <p>13 solve our challenges with Airbus that Accipiter</p> <p>14 was -- or AMCK was presenting to us.</p> <p>15 And so we needed to have a</p> <p>16 conversation to outline our positions and to</p> <p>17 try and progress this matter.</p> <p>18 Q. So do I understand correctly that,</p> <p>19 by this time, you knew that the Mobile Airbus</p> <p>20 facility was closing temporarily and that</p> <p>21 all -- all deliveries would be delayed by at</p> <p>22 least a little while from Airbus?</p> <p>23 A. If you scroll down in your</p> <p>24 e-mails -- if you scroll down on this page,</p> <p>25 please.</p>

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<p style="text-align: right;">Page 74</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 MR. BUTLER: Gege, could you scroll</p> <p>3 down?</p> <p>4 A. I think it's spelled out very</p> <p>5 clearly. I sent Paul an e-mail saying, "Are</p> <p>6 you available for a call? Airbus has closed</p> <p>7 Mobile until April 29."</p> <p>8 Q. Okay. So this is the call that</p> <p>9 you're referring to?</p> <p>10 A. Yes.</p> <p>11 Q. But you don't remember whether Paul</p> <p>12 called you or you called Paul?</p> <p>13 A. I don't recall. I don't know why it</p> <p>14 matters.</p> <p>15 Q. Was anyone else on the call?</p> <p>16 A. I don't recall. I think it was a</p> <p>17 call between Paul and I, but I cannot confirm</p> <p>18 that.</p> <p>19 Q. Do you remember what time of day the</p> <p>20 call took place?</p> <p>21 A. I think it was likely morning my</p> <p>22 time, afternoon his time, given the time zone</p> <p>23 difference.</p> <p>24 Q. Is that typically the time that you</p> <p>25 would have a telephone conversation with</p>	<p style="text-align: right;">Page 76</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Did you ask Mr. Sheridan for a</p> <p>3 month-to-month deferral?</p> <p>4 A. We discussed it. It was raised on</p> <p>5 the call that, given the change in Mobile, that</p> <p>6 we should look at this on a month-to-month</p> <p>7 basis because clearly the delivery of the</p> <p>8 aircraft was being moved into May at the</p> <p>9 earliest.</p> <p>10 Q. Do you remember what Mr. Sheridan</p> <p>11 said about the month-to-month deferral idea?</p> <p>12 A. Yes, he said that he would agree to</p> <p>13 a month-to-month rent deferral.</p> <p>14 Q. Were those his exact words?</p> <p>15 A. I don't recall his exact words, but</p> <p>16 that was the essence of what he said.</p> <p>17 Q. You said he would agree to it.</p> <p>18 Was it your expectation that this</p> <p>19 month-to-month deferral would be documented in</p> <p>20 writing?</p> <p>21 A. I had been given an undertaking by</p> <p>22 Paul that we would move to a month to month as</p> <p>23 opposed to ten days, and as a result, I took</p> <p>24 his word for it. What we really wanted to do</p> <p>25 was document a longer term solution to the</p>
<p style="text-align: right;">Page 75</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Mr. Sheridan?</p> <p>3 A. Yes.</p> <p>4 Q. How often were you speaking to</p> <p>5 Mr. Sheridan around this time? Was this call</p> <p>6 an unusual event or something that happened</p> <p>7 very frequently?</p> <p>8 A. I mean, I don't recall how</p> <p>9 frequently we spoke, but around this time, we</p> <p>10 spoke on multiple occasions.</p> <p>11 Q. Okay. On this particular call where</p> <p>12 you discussed the Mobile facility situation,</p> <p>13 what else do you remember about that call?</p> <p>14 A. Paul and I agreed that we would deal</p> <p>15 with the rent deferrals on a month-to-month</p> <p>16 basis. And so, therefore, we didn't have any</p> <p>17 rent due for the rest of April.</p> <p>18 And so we were working on the basis</p> <p>19 of that, and that we would continue trying to</p> <p>20 find a solution that helped them with the</p> <p>21 timing of delivery of the aircraft. And we</p> <p>22 worked towards a rent deferral of longer than</p> <p>23 the month-to-month basis.</p> <p>24 Q. You said that you agreed to a</p> <p>25 month-to-month deferral.</p>	<p style="text-align: right;">Page 77</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 issues that existed.</p> <p>3 Q. In your discussion with</p> <p>4 Mr. Sheridan, how did you expect the</p> <p>5 month-to-month deferral to work?</p> <p>6 A. We wouldn't pay any rent and</p> <p>7 continue the negotiations.</p> <p>8 Q. What would be --</p> <p>9 A. And, you know, our task was to, you</p> <p>10 know, provide relief from aircraft deliveries</p> <p>11 in Airbus, so that they could move the</p> <p>12 financing requirement out, and we would not</p> <p>13 have to pay rent while we tried to negotiate</p> <p>14 that.</p> <p>15 Q. So was it your understanding that</p> <p>16 this was an indefinite deferral of rent under</p> <p>17 your agreements with AMCK?</p> <p>18 A. No, it was a fluid situation, but</p> <p>19 clearly, at this point, it was for the month of</p> <p>20 April.</p> <p>21 Q. So by month to month, you understood</p> <p>22 the deferral to be for the month of April; is</p> <p>23 that right?</p> <p>24 A. My understanding was, at this point</p> <p>25 in time, my understanding was that their</p>

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<p style="text-align: right;">Page 78</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 position was that they would facilitate a rent</p> <p>3 deferral for April, and we would continue to</p> <p>4 work on a longer term solution. And so we were</p> <p>5 working on that basis.</p> <p>6 It was subsequently -- subsequently,</p> <p>7 the negotiations developed where they were</p> <p>8 looking for us to be current on May 15, and so</p> <p>9 we were dealing with a continuous moving date</p> <p>10 as we were negotiating with Airbus.</p> <p>11 And my point of view at the time was</p> <p>12 that it would take some time to get agreement</p> <p>13 with Airbus longer than towards the end of</p> <p>14 April, but we were endeavoring to try and do</p> <p>15 that, and that's what we were working hard on</p> <p>16 in the background with Airbus on achieving for</p> <p>17 our partners and principally -- and to solve</p> <p>18 for the short-term financing needs in our</p> <p>19 business.</p> <p>20 Q. Going back to the April 7 call with</p> <p>21 Mr. Sheridan, I think you said it was a</p> <p>22 deferral for the month of April.</p> <p>23 So Mr. Sheridan obviously extended</p> <p>24 to you a grace period through April 21 in his</p> <p>25 April 6 e-mail.</p>	<p style="text-align: right;">Page 80</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 as discussing exactly when we would repay it</p> <p>3 and what AMCK at the time were proposing to us</p> <p>4 or developed into around that time was a -- and</p> <p>5 we had to be current on all our rent in order</p> <p>6 to deliver the aircraft.</p> <p>7 Q. Was there any discussion on your</p> <p>8 April 7 call with Mr. Sheridan about the</p> <p>9 interest rate that Frontier would pay on the</p> <p>10 deferred amounts?</p> <p>11 A. No, I don't recall any discussion on</p> <p>12 interest rates. It wasn't the primary issue.</p> <p>13 Q. And I think I asked you this</p> <p>14 question before, but just to be clear, did you</p> <p>15 expect that month-to-month agreement with</p> <p>16 Mr. Sheridan to be documented in a written</p> <p>17 agreement between the parties?</p> <p>18 THE WITNESS: Go ahead, David.</p> <p>19 MR. HOSENPUD: Just objection, asked</p> <p>20 and answered.</p> <p>21 You can answer.</p> <p>22 A. We were working towards a more</p> <p>23 formalized agreement overall. And so, I mean,</p> <p>24 I took his word given that he was the chief</p> <p>25 executive of the company that he had provided</p>
<p style="text-align: right;">Page 79</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Is it your recollection that the</p> <p>3 next day Mr. Sheridan agreed to a grace period</p> <p>4 that would extend at least to April 30?</p> <p>5 A. The way it was deemed was we will</p> <p>6 deal with this on a month-to-month basis, and</p> <p>7 so yes, it was at least till the end of April</p> <p>8 with, you know, an overall solution to be</p> <p>9 worked out in the intervening period.</p> <p>10 Q. When you use the term "month to</p> <p>11 month," does that mean that basically you're</p> <p>12 agree one month at a time? So, first, let's</p> <p>13 agree to the end of April, then later we'll</p> <p>14 agree to the end of May, if it's necessary?</p> <p>15 A. Correct.</p> <p>16 Q. And what is the -- so if that's the</p> <p>17 deferral that you talked about with</p> <p>18 Mr. Sheridan, what did you discuss about</p> <p>19 repayment?</p> <p>20 A. We said that we would solve that in</p> <p>21 the overall deal we were putting together.</p> <p>22 Q. Did you discuss, during your call on</p> <p>23 April 7, the repayment period for the rent</p> <p>24 deferred for the month of April?</p> <p>25 A. I don't recall it being as granular</p>	<p style="text-align: right;">Page 81</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 us with that.</p> <p>3 Q. Did you ask Mr. Sheridan to confirm</p> <p>4 the month-to-month arrangement in writing?</p> <p>5 A. I don't recall. I do recall</p> <p>6 instructing Robert Fanning -- or, sorry --</p> <p>7 confirming to Robert Fanning that he had agreed</p> <p>8 to that.</p> <p>9 Q. Did you ask Mr. Fanning to confirm</p> <p>10 that in writing with AMCK?</p> <p>11 A. I don't recall if I did. I don't</p> <p>12 see -- I don't recall it being an issue given</p> <p>13 that I received this from Paul, who is the</p> <p>14 chief executive.</p> <p>15 Q. Did you consider shooting an e-mail</p> <p>16 to Paul saying, hey, just to confirm our</p> <p>17 understanding, and maybe writing out what you</p> <p>18 had agreed to?</p> <p>19 A. I don't recall.</p> <p>20 MR. BUTLER: Let me show you the</p> <p>21 next exhibit, which we are going to mark</p> <p>22 as Dempsey Exhibit 9.</p> <p>23 This is a single exhibit with two</p> <p>24 different documents with different Bates</p> <p>25 numbers. It's FRONTIER3493 and</p>

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<p style="text-align: right;">Page 82</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 FRONTIER12172.</p> <p>3 (Dempsey Exhibit 9, Text Messages,</p> <p>4 Bates Stamped FRONTIER0003493 and</p> <p>5 FRONTIER0012172, marked for</p> <p>6 identification.)</p> <p>7 Q. I put these two documents together</p> <p>8 because I think they are an exchange of text</p> <p>9 messages. I have your text messages on the</p> <p>10 first page and Mr. Fanning's text messages on</p> <p>11 the second page. They're all from the same</p> <p>12 day, April 7, 2020.</p> <p>13 A. Yeah.</p> <p>14 Q. And I want to focus your attention,</p> <p>15 first, on the top of the first page, which I</p> <p>16 think is your text message to Mr. Fanning. You</p> <p>17 write, "Just spoke to Paul Sheridan. He has</p> <p>18 agreed to do the deferral on a month to month."</p> <p>19 Did I read that correctly?</p> <p>20 A. Yes.</p> <p>21 Q. And is that your text message to</p> <p>22 Mr. Fanning describing your interpretation of</p> <p>23 the call with Mr. Sheridan?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And if you go over to the</p>	<p style="text-align: right;">Page 84</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 refresh your recollection that you expected a</p> <p>3 written agreement to be entered --</p> <p>4 A. Oh.</p> <p>5 Q. -- reflecting the month-to-month</p> <p>6 arrangement?</p> <p>7 A. I suggested that we get a draft of</p> <p>8 that arrangement, yes, to them.</p> <p>9 Q. And in your response to Mr. Fanning,</p> <p>10 you also clarify that you did not discuss the</p> <p>11 repayment period with Mr. Sheridan, correct?</p> <p>12 A. That's correct.</p> <p>13 Q. And your direction to Mr. Fanning is</p> <p>14 that you should insist -- that Frontier should</p> <p>15 insist on a nine-month repayment period; is</p> <p>16 that right?</p> <p>17 A. That was my suggestion.</p> <p>18 Q. And from July 1 -- the repayment</p> <p>19 would not begin until July 1 in your view</p> <p>20 pursuant to your request, right?</p> <p>21 A. That is exactly what I said.</p> <p>22 Q. Okay. Going back to Mr. Fanning's</p> <p>23 side of the conversation, it looks like he</p> <p>24 responds at 11:04 a.m., "They have our draft.</p> <p>25 I'll follow up with Jane."</p>
<p style="text-align: right;">Page 83</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 other side of the page, it's on the second page</p> <p>3 of this exhibit, it looks like Mr. Fanning</p> <p>4 responds, this is at 10:59 a.m., "OK. Good.</p> <p>5 Anything mentioned on the repayment period?</p> <p>6 And are they going to send our revised</p> <p>7 agreement over?"</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Is that the response you received</p> <p>11 from Mr. Fanning on that day?</p> <p>12 A. I assume so, yes.</p> <p>13 Q. Going back to your side of the</p> <p>14 conversation, it looks like you write back at</p> <p>15 11:03 a.m., "No, but we should stick to nine</p> <p>16 months from July 1. Let's get a draft to him."</p> <p>17 Did I read your response correctly?</p> <p>18 A. Yes.</p> <p>19 Q. Does that refresh your</p> <p>20 recollection --</p> <p>21 A. I mean, I think that answers your</p> <p>22 earlier question. So we must not have spoken</p> <p>23 about the repayment period and my suggestion</p> <p>24 was nine months from July.</p> <p>25 Q. My question, sir, is, does that</p>	<p style="text-align: right;">Page 85</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Did I read that correctly?</p> <p>3 A. Yes.</p> <p>4 Q. Was it your understanding that</p> <p>5 Frontier had already provided a draft deferral</p> <p>6 agreement to AMCK at this point in time?</p> <p>7 A. I wasn't in the weeds on the</p> <p>8 paperwork going back and forth. So, I mean, I</p> <p>9 don't recall being knowledgeable about it, but</p> <p>10 I wouldn't have been in the weeds on drafts</p> <p>11 going back and forth.</p> <p>12 Q. Well, do you know whether Frontier</p> <p>13 had previously sent a draft to AMCK that</p> <p>14 reflected the month-to-month deferral</p> <p>15 arrangement that you discussed with</p> <p>16 Mr. Sheridan?</p> <p>17 A. I don't know the answer to that. I</p> <p>18 don't think so because I think that that came</p> <p>19 up on the call with Paul Sheridan.</p> <p>20 Q. The month-to-month concept came up</p> <p>21 for the first time on that call?</p> <p>22 A. I mean, I'm not sure if it was the</p> <p>23 first time, but I recall it being the</p> <p>24 conclusion of that call and that's how we</p> <p>25 worked towards.</p>

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<p style="text-align: right;">Page 86</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 I'm not sure what the paperwork</p> <p>3 situation between the two parties were. That</p> <p>4 was being handled by Robert and his team.</p> <p>5 Q. Do you recall having -- well, we saw</p> <p>6 from your text exchange that you had a</p> <p>7 discussion with Mr. Fanning about the repayment</p> <p>8 period under this month-to-month arrangement.</p> <p>9 Did you also discuss with him the</p> <p>10 interest rate that would be applied?</p> <p>11 A. Not in this text chain.</p> <p>12 Q. My question, sir, is, do you recall</p> <p>13 having any discussion with him about the</p> <p>14 interest rate for the month-to-month</p> <p>15 arrangement?</p> <p>16 A. I do not.</p> <p>17 Q. Did AMCK and Frontier ever enter a</p> <p>18 written agreement of any kind that reflected</p> <p>19 the month-to-month arrangement that you</p> <p>20 discussed with Mr. Sheridan?</p> <p>21 A. I don't believe so. I believe we</p> <p>22 were working towards trying to find -- both</p> <p>23 parties were working towards trying to find an</p> <p>24 overall solution to the issue that existed.</p> <p>25 Q. Let me show you the next exhibit.</p>	<p style="text-align: right;">Page 88</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 deliveries for various aircraft ordered by</p> <p>3 Frontier?</p> <p>4 A. Yeah, this was their proposal to</p> <p>5 move aircraft and try and deal with the AMCK</p> <p>6 issue.</p> <p>7 Q. And did this proposal include all of</p> <p>8 the aircraft covered by the Framework Agreement</p> <p>9 with AMCK?</p> <p>10 A. Can you scroll down, please?</p> <p>11 (Document review.)</p> <p>12 That table does not cover all of the</p> <p>13 aircraft. It covers near-term aircraft --</p> <p>14 Q. So how many --</p> <p>15 A. -- the table that you've displayed</p> <p>16 on screen.</p> <p>17 Q. Yeah. So for this particular offer,</p> <p>18 did this only cover a portion of the remaining</p> <p>19 aircraft under the Framework Agreement?</p> <p>20 A. (Document review.)</p> <p>21 Sorry. Can I just read this, do you</p> <p>22 mind?</p> <p>23 Q. Of course. Take all the time you</p> <p>24 need.</p> <p>25 A. (Document review.)</p>
<p style="text-align: right;">Page 87</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 MR. BUTLER: I'm marking, as Dempsey</p> <p>3 Exhibit 10, a document bearing Bates</p> <p>4 numbers FRONTIER4144 to 45.</p> <p>5 (Dempsey Exhibit 10, E-Mail Chain,</p> <p>6 Bates Stamped FRONTIER0004144 through 45,</p> <p>7 marked for identification.)</p> <p>8 A. Yeah.</p> <p>9 Q. And this appears at the top to be an</p> <p>10 e-mail from you on Saturday, April 11, 2020, to</p> <p>11 Sharath Sashikumar and copied to some others,</p> <p>12 and it looks like you're forwarding an offer</p> <p>13 from Airbus; is that correct?</p> <p>14 A. (Document review.) Yes.</p> <p>15 Q. And did you send this e-mail?</p> <p>16 A. Yes.</p> <p>17 Q. The offer from Airbus that you're</p> <p>18 forwarding is from a person named Chris Jones.</p> <p>19 And I think you said before that</p> <p>20 he's Frontier's relationship person at Airbus;</p> <p>21 is that right?</p> <p>22 A. That's correct. Well, he was. He's</p> <p>23 not -- yes, at that time.</p> <p>24 Q. Okay. And is this -- this offer</p> <p>25 from Airbus, is this a proposal to delay</p>	<p style="text-align: right;">Page 89</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 That table just deals with the 2020</p> <p>3 aircraft deliveries. Can you scroll down</p> <p>4 further?</p> <p>5 Yeah, that was just a portion of</p> <p>6 what was going on at that time.</p> <p>7 Q. I see. So this was not -- this does</p> <p>8 not completely describe the potential deferrals</p> <p>9 on aircraft deliveries from Airbus; is that</p> <p>10 correct?</p> <p>11 A. No, but if you read the context of</p> <p>12 his note, he is trying to help following my</p> <p>13 request to move aircraft deliveries to satisfy</p> <p>14 AMCK as is mentioned in this first paragraph.</p> <p>15 So you'll see they offered to move</p> <p>16 the planned April delivery date to June, the</p> <p>17 next plan, which is MSN 9549. And then the</p> <p>18 following aircraft, that would move from April</p> <p>19 to July, May to July, and so they were trying</p> <p>20 to move aircraft to satisfy our request, but it</p> <p>21 was falling short for AMCK because they</p> <p>22 initially wanted three to six months. Then</p> <p>23 they moved to six months, and their position</p> <p>24 was changing multiple times.</p> <p>25 So these were aircraft that were</p>

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<p style="text-align: right;">Page 90</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 particularly the ones in the first few months</p> <p>3 with MSNs. They were pre-advanced in terms of</p> <p>4 production, and he was able to give relief out</p> <p>5 of 2020 into 2021, but very short relief into</p> <p>6 2021 on four aircraft. And so that's what they</p> <p>7 proposed at that time.</p> <p>8 Q. So Airbus was willing to delay some</p> <p>9 of the aircraft deliveries, just not quite as</p> <p>10 long as AMCK had requested; is that right?</p> <p>11 A. That's correct.</p> <p>12 Q. And in this proposal, going back to</p> <p>13 my question now that you studied it a little</p> <p>14 bit more, did this cover all of the aircraft</p> <p>15 remaining under the Framework Agreement or just</p> <p>16 a portion of the aircraft?</p> <p>17 A. No, this covered a portion of the</p> <p>18 aircraft.</p> <p>19 Q. Okay. Is it the first three</p> <p>20 aircraft that are listed in this chart that are</p> <p>21 part of the Framework Agreement?</p> <p>22 A. Let me -- sorry. Excuse me. Let me</p> <p>23 recast that.</p> <p>24 When you say Framework Agreement,</p> <p>25 are you talking about the AMCK Framework</p>	<p style="text-align: right;">Page 92</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 delivery schedule that is set forth in the</p> <p>3 Framework Agreement, correct?</p> <p>4 A. Correct. This was a fluid</p> <p>5 conversation with Airbus. This is</p> <p>6 approximately a week after they made the</p> <p>7 decision to close down Mobile, and so this is</p> <p>8 the concession that they offered to help us</p> <p>9 with what -- with AMCK's request. It just fell</p> <p>10 short.</p> <p>11 Q. Let me show you the next exhibit.</p> <p>12 MR. BUTLER: We are marking, as</p> <p>13 Dempsey Exhibit 11, a document bearing</p> <p>14 Bates number FRONTIER12173. It's a</p> <p>15 one-page document.</p> <p>16 (Dempsey Exhibit 11, Text Message,</p> <p>17 Bates Stamped FRONTIER0012173, marked for</p> <p>18 identification.)</p> <p>19 Q. And this appears to be a text</p> <p>20 message from you to Paul Sheridan on the same</p> <p>21 day as the previous exhibit, Saturday,</p> <p>22 April 11, 2020.</p> <p>23 Is that your understanding as well?</p> <p>24 A. (Document review.)</p> <p>25 April 11, yes. Is it? Yes.</p>
<p style="text-align: right;">Page 91</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Agreement or you're talking about the Airbus</p> <p>3 Purchase Agreement?</p> <p>4 Q. Whenever I say "Framework</p> <p>5 Agreement," I'm talking about the agreement</p> <p>6 with AMCK.</p> <p>7 A. Okay. My bad.</p> <p>8 My understanding is that this does</p> <p>9 cover all of the Framework Agreement aircraft.</p> <p>10 My understanding is that the next</p> <p>11 five deliveries -- I mean, I may be wrong on</p> <p>12 the fourth or fifth aircraft, but they were</p> <p>13 effectively scheduled to be the next sequential</p> <p>14 aircraft over the production line from Airbus.</p> <p>15 Sorry. My bad. I misinterpreted</p> <p>16 what you said.</p> <p>17 Q. Thank you for clarifying that.</p> <p>18 So is it correct that, as of this</p> <p>19 point in time, you knew that Airbus was willing</p> <p>20 to delay those deliveries under the Framework</p> <p>21 Agreement by at least some period of time; is</p> <p>22 that right?</p> <p>23 A. Yes.</p> <p>24 Q. In other words, Airbus was not, by</p> <p>25 this point in time, holding Frontier to the</p>	<p style="text-align: right;">Page 93</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Q. And in your text message you say,</p> <p>3 "Sorry to bug you on a Saturday. We have been</p> <p>4 working with Airbus to push deliveries. I</p> <p>5 don't have this agreed yet, however, I want to</p> <p>6 see if a two-month delay works for you into</p> <p>7 June for the aircraft that should have been</p> <p>8 delivered last week? There are other moves</p> <p>9 afoot later in the year, however, near-term</p> <p>10 moves are extremely challenging. Let me know."</p> <p>11 Did I read your text correctly?</p> <p>12 A. Yes.</p> <p>13 Q. And were you referring here to a</p> <p>14 two-month delay of the next delivery under the</p> <p>15 Framework Agreement with AMCK?</p> <p>16 A. I was referring to the aircraft that</p> <p>17 were -- yes, that were in the Framework</p> <p>18 Agreement. So what I was referring to was a</p> <p>19 two-month delay in the near-term deliveries.</p> <p>20 Q. And Mr. Sheridan had previously</p> <p>21 asked -- or AMCK had previously asked for a</p> <p>22 three to six-month delay or a six-month delay.</p> <p>23 Is it correct you're asking here if</p> <p>24 a two-month delay would be enough for AMCK; is</p> <p>25 that right?</p>

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<p style="text-align: right;">Page 94</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 A. Yes, I am basically bringing him up</p> <p>3 to speed on what Airbus has offered.</p> <p>4 Q. And did you receive a response from</p> <p>5 Mr. Sheridan to this text, to your memory?</p> <p>6 A. I don't recall.</p> <p>7 Q. Let me show you the next exhibit,</p> <p>8 which is Dempsey Exhibit 12.</p> <p>9 MR. BUTLER: It's a document bearing</p> <p>10 Bates numbers AMCK17769 through 17771.</p> <p>11 (Dempsey Exhibit 12, E-Mail Chain,</p> <p>12 Bates Stamped AMCK17769 through 17771,</p> <p>13 marked for identification.)</p> <p>14 Q. And this is a series of e-mails, an</p> <p>15 e-mail chain. The most recent e-mail in the</p> <p>16 chain is Monday, April 13, from Paul Sheridan</p> <p>17 to you.</p> <p>18 But I want to start with the e-mail</p> <p>19 a little -- in the middle of the page which</p> <p>20 appears to be an April 13 e-mail from you to</p> <p>21 Paul Sheridan.</p> <p>22 Do you see that?</p> <p>23 A. Yep.</p> <p>24 Q. And does this appear to be an e-mail</p> <p>25 that you sent to Paul Sheridan on April 13,</p>	<p style="text-align: right;">Page 96</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Q. Going back to Paul's e-mail at the</p> <p>3 top of the page, it looks like he responds to</p> <p>4 you on the same day, and he says, "Hi Jimmy,</p> <p>5 apologies for the slow response, but I was</p> <p>6 waiting for some feedback from the</p> <p>7 shareholders. Essentially we want to tie the</p> <p>8 deliveries to having no outstanding deferrals</p> <p>9 so it would only work if we recast the deferral</p> <p>10 agreement."</p> <p>11 So my question, sir, is, what did</p> <p>12 you understand Mr. Sheridan to be saying when</p> <p>13 he referred to "no outstanding deferrals"?</p> <p>14 A. He means -- I can't put words in his</p> <p>15 mouth, but my understanding is that he means</p> <p>16 that your rent is paid up to date.</p> <p>17 Q. And in this e-mail, does</p> <p>18 Mr. Sheridan say one way or the other whether a</p> <p>19 two-month deferral would be acceptable to AMCK?</p> <p>20 A. Sorry. Could you repeat that,</p> <p>21 please?</p> <p>22 Q. I said, in this response from</p> <p>23 Mr. Sheridan, does he say one way or the other</p> <p>24 whether a two-month delivery delay from Airbus</p> <p>25 would be satisfactory to AMCK?</p>
<p style="text-align: right;">Page 95</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 2020?</p> <p>3 A. Yep.</p> <p>4 Q. And, again, in this e-mail, are you</p> <p>5 asking him, once again, whether a two-month</p> <p>6 delay would be okay?</p> <p>7 A. (Document review.)</p> <p>8 I'm asking -- I'm spelling out what</p> <p>9 Airbus has offered us.</p> <p>10 Q. And then in the second paragraph of</p> <p>11 your e-mail you write, "I understand that you</p> <p>12 were looking for a six-month delay, however,</p> <p>13 that is impractical given the advanced nature</p> <p>14 of the aircraft production. Please confirm</p> <p>15 that you can support" -- "please confirm you</p> <p>16 can support the revised schedule."</p> <p>17 Did I read your e-mail correctly?</p> <p>18 A. Yes.</p> <p>19 Q. So I think this is consistent with</p> <p>20 what you said before, but did you understand,</p> <p>21 at this time, that AMCK was -- had been looking</p> <p>22 for a six-month delay, but you were only able</p> <p>23 to get to this point a two-month delay from</p> <p>24 Airbus?</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">Page 97</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 A. He says, essentially, we want to tie</p> <p>3 the deliveries to having no outstanding</p> <p>4 deferrals, so it would only work if we recast</p> <p>5 the deferral agreement.</p> <p>6 Q. Right. And my question, sir, is,</p> <p>7 does he say anything about whether the</p> <p>8 two-month delay that you wrote him about would</p> <p>9 be acceptable to AMCK?</p> <p>10 A. On condition that we had no</p> <p>11 outstanding deferrals. So he makes the comment</p> <p>12 that he may be able to work this, but he wants</p> <p>13 no outstanding deferrals.</p> <p>14 Q. So did you understand Mr. Sheridan</p> <p>15 to be saying, if Frontier gets current on its</p> <p>16 rent, this might work?</p> <p>17 A. He didn't say that. He said,</p> <p>18 essentially, we want to tie the deliveries to</p> <p>19 having no outstanding deferrals, so it would</p> <p>20 only work if we recast the deferral agreement.</p> <p>21 Q. And did you understand this to mean</p> <p>22 that Mr. Sheridan wanted Frontier to get up to</p> <p>23 date on its rent payments?</p> <p>24 A. You would have to ask Paul Sheridan.</p> <p>25 Q. I'm asking, sir, about your</p>

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<p style="text-align: right;">Page 102</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 answered, argumentative.</p> <p>3 You can answer.</p> <p>4 A. My understanding of what he is</p> <p>5 saying is you need to have all of your rent</p> <p>6 paid at the point of delivery of the next</p> <p>7 aircraft.</p> <p>8 MR. HOSENPUD: Let's take a break.</p> <p>9 It's 10:10.</p> <p>10 MR. BUTLER: That would be fine.</p> <p>11 When should we come back, David?</p> <p>12 MR. HOSENPUD: Actually, it's 10:12,</p> <p>13 I misspoke. How about ten minutes?</p> <p>14 MR. BUTLER: Sure. Why don't we</p> <p>15 throw in the extra three and resume at 25</p> <p>16 after the hour?</p> <p>17 MR. HOSENPUD: Reasonable. Thank</p> <p>18 you.</p> <p>19 (Recess taken.)</p> <p>20 MR. BUTLER: I would like to mark</p> <p>21 the next exhibit, which we will call</p> <p>22 Dempsey Exhibit 13. It's a document</p> <p>23 bearing Bates numbers FRONTIER4329 to</p> <p>24 4334.</p> <p>25 (Dempsey Exhibit 13, E-Mail Chain,</p>	<p style="text-align: right;">Page 104</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Q. And I guess we could scroll down,</p> <p>3 Gege, to the attachment, a lot of which is</p> <p>4 redacted, but there is a portion that's</p> <p>5 unredacted. It seems to reflect some new</p> <p>6 delivery months for various aircraft.</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. And does that remind you that this</p> <p>10 is a new proposed delivery schedule from Airbus</p> <p>11 on April 17, 2020?</p> <p>12 A. Yes, this was their latest proposal</p> <p>13 to us on the timing of the delivery schedules.</p> <p>14 If you scroll down, I think it</p> <p>15 covers -- okay. So it's redacted, but I</p> <p>16 believe it covered multiple years. I mean, you</p> <p>17 have to go back to the e-mail, but it seems</p> <p>18 like that's likely what it does.</p> <p>19 Q. Okay. Does this revised delivery</p> <p>20 schedule cover the aircraft or include the</p> <p>21 aircraft that are covered by the Framework</p> <p>22 Agreement with AMCK?</p> <p>23 A. Yes, so I think if you look, the</p> <p>24 initial contracted month of delivery for rank</p> <p>25 52 is March, and if you tie that to the earlier</p>
<p style="text-align: right;">Page 103</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Bates Stamped FRONTIER0004329 through</p> <p>3 4334, marked for identification.)</p> <p>4 Q. And it's a series of e-mails. It</p> <p>5 looks like the top e-mail in the chain is from</p> <p>6 Ray Bishop of Airbus, dated Friday, April 17,</p> <p>7 to you, Mr. Dempsey, and some others.</p> <p>8 My first question is, did you</p> <p>9 receive this e-mail on that date?</p> <p>10 A. It seems to be, yeah.</p> <p>11 Q. First, who is Ray Bishop?</p> <p>12 A. Ray Bishop is -- I don't know his</p> <p>13 exact title, but he is the individual that</p> <p>14 manages our contract on behalf of Airbus. He</p> <p>15 works for Airbus.</p> <p>16 Q. And in this e-mail, is Mr. Bishop</p> <p>17 forwarding to you a new updated proposed</p> <p>18 delivery schedule?</p> <p>19 A. That's certainly the title of the</p> <p>20 attachment.</p> <p>21 Q. And in the e-mail he says, "Please</p> <p>22 find attached file updated to reflect the</p> <p>23 proposed delivery months."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 105</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 correspondence, Airbus was offering to move</p> <p>3 that to June.</p> <p>4 Similarly, March -- the second March</p> <p>5 delivery was now being proposed in July, and</p> <p>6 likewise for May to July, May to January, June</p> <p>7 to September. You know, this is the sequence</p> <p>8 of a series of aircraft in 2020 and 2021 and</p> <p>9 movements for those.</p> <p>10 Q. Let me show you the next exhibit.</p> <p>11 MR. BUTLER: I'm marking, as</p> <p>12 Exhibit 14, a two-page document bearing</p> <p>13 nonconsecutive Bates numbers FRONTIER3500</p> <p>14 and FRONTIER 3502.</p> <p>15 (Dempsey Exhibit 14, Text Messages,</p> <p>16 Bates Stamped FRONTIER0003500 and 3502,</p> <p>17 marked for identification.)</p> <p>18 Q. These are each a series of text</p> <p>19 messages, dated April 22, 2020, and it looks</p> <p>20 like they are text messages from you,</p> <p>21 Mr. Dempsey, on the first page and from Robert</p> <p>22 Fanning on the second page. So we are going to</p> <p>23 go ahead and put them side by side.</p> <p>24 I guess my first question is,</p> <p>25 looking at the right {sic} side of this page,</p>

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<p style="text-align: right;">Page 114</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 the purchase until we are up to date on</p> <p>3 payments.</p> <p>4 Q. I understand there are two parts to</p> <p>5 it, but didn't you understand that to mean that</p> <p>6 AMCK wanted Frontier to be current on its</p> <p>7 payments as is required under the Lease</p> <p>8 Agreements?</p> <p>9 A. I understood that AMCK had provided</p> <p>10 us with relief from paying rent, and in order</p> <p>11 to fund a new purchase of an aircraft, that we</p> <p>12 had to be up to date on all rent payments.</p> <p>13 Q. Mr. Dempsey, isn't Ms. O'Callaghan</p> <p>14 sending a clear message to Frontier Airlines</p> <p>15 that AMCK wanted Frontier to pay its rent?</p> <p>16 MR. HOSENPUD: Objection,</p> <p>17 argumentative.</p> <p>18 You can answer.</p> <p>19 A. They wanted us to pay our rent in</p> <p>20 order to fund the purchase of an aircraft.</p> <p>21 Q. Let me show you the next exhibit.</p> <p>22 MR. BUTLER: I'm going to mark, as</p> <p>23 Dempsey Exhibit 16, a document bearing</p> <p>24 Bates numbers FRONTIER3510 to 3513.</p> <p>25 (Dempsey Exhibit 16, Text Messages,</p>	<p style="text-align: right;">Page 116</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Q. It looks like Mr. Fanning just cut</p> <p>3 and paste a text from Jane into a text to you,</p> <p>4 correct?</p> <p>5 A. That's my assumption.</p> <p>6 Q. And in that chat from Jane, it looks</p> <p>7 like she says something very similar to what</p> <p>8 she said two days before. It says, "1. We</p> <p>9 will be unable to fund any new delivery unless</p> <p>10 all payments are up to date, so there can be no</p> <p>11 deferred payments outstanding at closing."</p> <p>12 My question once again is, did you</p> <p>13 interpret this to be another message from AMCK</p> <p>14 that they wanted Frontier to get current on its</p> <p>15 rent?</p> <p>16 MR. HOSENPUD: Objection, form.</p> <p>17 You can answer.</p> <p>18 A. They wanted us to be current on all</p> <p>19 payments to fund a new delivery that they were</p> <p>20 bound to fund.</p> <p>21 Q. Let me ask you this, Mr. Dempsey.</p> <p>22 If you weren't able to reach</p> <p>23 agreement on a new delivery, did you understand</p> <p>24 that AMCK wanted all the rent to be paid?</p> <p>25 A. I mean, that's a hypothetical,</p>
<p style="text-align: right;">Page 115</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Bates Stamped FRONTIER0003510 through</p> <p>3 3513, marked for identification.)</p> <p>4 Q. It appears to be a collection of</p> <p>5 text messages involving yourself, Mr. Thwaytes</p> <p>6 and Mr. Fanning. These are all texts from</p> <p>7 Mr. Fanning or Mr. Thwaytes, and the date of</p> <p>8 this is April 25, 2020.</p> <p>9 So my first question, Mr. Dempsey,</p> <p>10 is do you recognize these as texts that you</p> <p>11 received as part of this group chat on</p> <p>12 April 25, 2020?</p> <p>13 A. Yes.</p> <p>14 Q. And there is a text from Robert</p> <p>15 Fanning on that date that he begins, "Jimmy,</p> <p>16 finally a reply from Jane this morning."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And then it appears that he quotes</p> <p>20 language from a text from Jane.</p> <p>21 Is that your interpretation of this</p> <p>22 as well?</p> <p>23 A. (Document review.)</p> <p>24 I assume that that's where the text</p> <p>25 came from.</p>	<p style="text-align: right;">Page 117</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 right?</p> <p>3 Q. And I'm asking you the hypothetical.</p> <p>4 Was it your understanding that, if</p> <p>5 you could not reach agreement on the Framework</p> <p>6 Agreement, that AMCK still wanted all the rent</p> <p>7 to be paid on time?</p> <p>8 A. So we understood that, and we were</p> <p>9 proposing a deferral in rent, not that we would</p> <p>10 not pay the rent. So there is a distinction</p> <p>11 there.</p> <p>12 And we understood in the situation</p> <p>13 that we were in at this stage in April, that we</p> <p>14 have been given rent relief but that that rent</p> <p>15 relief would expire in order for them to</p> <p>16 deliver a new aircraft to us, and the next</p> <p>17 aircraft delivery was moved to June, from</p> <p>18 initially March, into April and then into June.</p> <p>19 Q. Let me show you the next exhibit.</p> <p>20 MR. BUTLER: I'm marking, as Dempsey</p> <p>21 Exhibit 17, a document bearing Bates</p> <p>22 numbers FRONTIER338 through 342.</p> <p>23 (Dempsey Exhibit 17, E-Mail Chain,</p> <p>24 Bates Stamped FRONTIER0000338 through 342,</p> <p>25 marked for identification.)</p>

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<p style="text-align: right;">Page 118</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Q. This appears to be a series of</p> <p>3 e-mails. The last e-mail in the series is</p> <p>4 dated April 27, 2020, from Paul Sheridan to</p> <p>5 you, Mr. Dempsey.</p> <p>6 I want to start by asking you about</p> <p>7 the e-mail in the middle of the page, the</p> <p>8 preceding e-mail, which appears to be an e-mail</p> <p>9 from you to Mr. Sheridan on April 27, 2020.</p> <p>10 Do you see that e-mail?</p> <p>11 A. That's an e-mail from me to Paul,</p> <p>12 yes.</p> <p>13 Q. Yeah. Does that appear to be an</p> <p>14 e-mail from you to Paul on April 27?</p> <p>15 A. Yes.</p> <p>16 Q. And in the second line of your</p> <p>17 e-mail to Paul, towards the end, there is a</p> <p>18 sentence that reads as follows, "I put a scheme</p> <p>19 in place with Airbus that would facilitate</p> <p>20 short-term deferrals of the aircraft on the</p> <p>21 basis that you would honor your agreement."</p> <p>22 Did I read that sentence correctly?</p> <p>23 A. Yes.</p> <p>24 Q. Does that refer to the two-month</p> <p>25 delivery delay that you had been successful at</p>	<p style="text-align: right;">Page 120</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 reopening. And then that got moved to June</p> <p>3 because we asked for relief, and they</p> <p>4 effectively said we can do an aircraft delivery</p> <p>5 in June.</p> <p>6 That negotiation continued with</p> <p>7 Airbus, and we managed to move that aircraft to</p> <p>8 July, and it delivered in July.</p> <p>9 Q. And that was still less than the</p> <p>10 six-month delay in delivery that Mr. Sheridan</p> <p>11 had previously requested, correct?</p> <p>12 A. Yeah, if you go down in this e-mail</p> <p>13 chain, you'll see where he stipulates the</p> <p>14 six-month period was set to allow repayments of</p> <p>15 the deferred rent, as well as to be over the</p> <p>16 deferral period.</p> <p>17 So our assumption, at that time, was</p> <p>18 that, if we were current on rent at the point</p> <p>19 of delivery, that the aircraft could deliver in</p> <p>20 June.</p> <p>21 Q. My question, sir, was, simply, that</p> <p>22 the time period that you had negotiated with</p> <p>23 Airbus, at this time, was less than the time</p> <p>24 period requested by Paul Sheridan; isn't that</p> <p>25 true?</p>
<p style="text-align: right;">Page 119</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 negotiating from Airbus?</p> <p>3 A. I agreed to a three-month deferral,</p> <p>4 but yes.</p> <p>5 Q. Well, at this time, was it a</p> <p>6 two-month deferral or a three-month deferral,</p> <p>7 if you remember?</p> <p>8 A. Well, in the Framework Agreement it</p> <p>9 was due to be delivered in March. That got</p> <p>10 moved into April, and then we moved it. And</p> <p>11 then as a result of conversations with Airbus,</p> <p>12 that moved into June at this point -- I think</p> <p>13 at this point in the conversations. It</p> <p>14 subsequently got moved to July.</p> <p>15 Q. I see. So you're three months</p> <p>16 includes the one-month delivery delay that was</p> <p>17 caused by Airbus closing the Mobile facility;</p> <p>18 is that right?</p> <p>19 A. I mean, technically the aircraft was</p> <p>20 in the Framework Agreement and in the agreement</p> <p>21 with Airbus to deliver in March. It then got</p> <p>22 moved to early April. As a result, then, of</p> <p>23 the closure of Mobile, it became uncertain as</p> <p>24 to its next delivery date, but it was assumed</p> <p>25 to be in early May dependent on Mobile</p>	<p style="text-align: right;">Page 121</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 A. I mean, I would have to check</p> <p>3 exactly what time period they were looking for</p> <p>4 at this point, but he seemed to come down on</p> <p>5 April 13 off six months and move to a tying</p> <p>6 paying the outstanding deferred rent with the</p> <p>7 delivery of the aircraft in June.</p> <p>8 That's where it sat, I think, around</p> <p>9 this time. And that's what's in his April 13</p> <p>10 e-mail.</p> <p>11 Q. The request evolved over time; is</p> <p>12 that correct?</p> <p>13 A. The request from AMCK evolved over</p> <p>14 time. Our request is pretty consistent.</p> <p>15 Q. But in terms of the six-month</p> <p>16 deferral, it wasn't the case that Paul asked</p> <p>17 for a six-month delay and you went and got it</p> <p>18 from Airbus, correct?</p> <p>19 A. Can you repeat that question? I</p> <p>20 think there is multiple questions in that.</p> <p>21 Q. My question is, that you described</p> <p>22 how things evolved, which I think sounds pretty</p> <p>23 accurate, but it did not unfold in the way that</p> <p>24 Paul asked you for a six-month delay and you</p> <p>25 delivered what Paul requested, correct?</p>

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<p style="text-align: right;">Page 122</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 A. I mean, we are going back now to</p> <p>3 early April when they asked for a six-month</p> <p>4 delay, and we asked Airbus and Airbus said no.</p> <p>5 What we -- what transpired, and it</p> <p>6 developed in the conversations, you can see it</p> <p>7 in the e-mails, my deduction from Paul is that</p> <p>8 they were willing to give us a six-month</p> <p>9 deferral and repayment of rent on the basis</p> <p>10 that it was -- there was no aircraft delivery.</p> <p>11 If the aircraft delivery occurred in</p> <p>12 June, they wanted us to pay all outstanding</p> <p>13 rent deferrals. That's where it was at that</p> <p>14 point.</p> <p>15 Q. In that situation, both sides would</p> <p>16 have to compromise a little bit on the</p> <p>17 concessions they initially requested from each</p> <p>18 other, correct?</p> <p>19 A. That is correct. We were willing to</p> <p>20 compromise on our request for rent deferrals --</p> <p>21 sorry. Let me rephrase that.</p> <p>22 AMCK is offering us an alternative</p> <p>23 solution, which resulted in us being up to date</p> <p>24 on aircraft rent deferrals in return for them</p> <p>25 turning up and financing the next aircraft</p>	<p style="text-align: right;">Page 124</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 fund that delivery.</p> <p>3 And so I am effectively agreeing to</p> <p>4 his proposal in the April 13 e-mail.</p> <p>5 Q. Did Mr. Sheridan provide the</p> <p>6 confirmation that you were requesting in this</p> <p>7 e-mail?</p> <p>8 A. I mean, I don't recall, but maybe if</p> <p>9 you scroll up you might find it. (Document</p> <p>10 review.)</p> <p>11 Q. Well, of course you can look at</p> <p>12 this, and I was going to go to that e-mail.</p> <p>13 Apart from looking at this e-mail,</p> <p>14 though, you don't recall Mr. Sheridan</p> <p>15 confirming what you asked him to confirm; is</p> <p>16 that correct?</p> <p>17 A. Sorry. Bear with me a second. My</p> <p>18 screen has just gone wonky.</p> <p>19 Okay. Can you repeat that, please?</p> <p>20 Q. My question, sir, is, setting aside</p> <p>21 this e-mail, which we're going to talk about in</p> <p>22 a second, do you have any recollection of</p> <p>23 Mr. Sheridan confirming, either orally or in</p> <p>24 writing, what you asked him to confirm in this</p> <p>25 e-mail?</p>
<p style="text-align: right;">Page 123</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 delivery in June.</p> <p>3 That's where it sat at that point.</p> <p>4 And we were considering it.</p> <p>5 Q. Focusing your attention back on your</p> <p>6 e-mail to Paul on April 22, in the next</p> <p>7 sentence after the one that I just read, it</p> <p>8 says, "Please confirm this is the case as we</p> <p>9 have a lease signed for these aircraft and are</p> <p>10 willing to ensure the deferred rent is paid as</p> <p>11 a CP of delivery."</p> <p>12 Did I read that correctly?</p> <p>13 A. Yes.</p> <p>14 Q. Were you asking Mr. Sheridan for</p> <p>15 confirmation that AMCK would fund deliveries if</p> <p>16 they were delayed by two months?</p> <p>17 A. I am following up on his e-mail</p> <p>18 where he made a proposal to us, and he wants to</p> <p>19 tie the deliveries -- the delivery of aircraft</p> <p>20 to having no outstanding deferrals.</p> <p>21 I am making a proposal to him and</p> <p>22 asking for his confirmation that he agrees that</p> <p>23 we will pay -- ensure that the deferred rent is</p> <p>24 paid as a condition precedent of the delivery</p> <p>25 on the basis that he confirms that he would</p>	<p style="text-align: right;">Page 125</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 A. I don't recall.</p> <p>3 Q. Focusing on the e-mail, Mr. Sheridan</p> <p>4 writes back to you, "Hi Jimmy, following our</p> <p>5 board meeting last week, we have been in</p> <p>6 discussions with our shareholders and will need</p> <p>7 to follow up with them again tomorrow morning,</p> <p>8 so I won't have an update until then.</p> <p>9 Apologies."</p> <p>10 Did I read that correctly?</p> <p>11 A. Yes.</p> <p>12 Q. Certainly, in this e-mail,</p> <p>13 Mr. Sheridan is not confirming any agreement</p> <p>14 with you, correct?</p> <p>15 A. No, he is sending a holding</p> <p>16 statement.</p> <p>17 Q. Let me show you the next exhibit.</p> <p>18 MR. BUTLER: I'm marking, as Dempsey</p> <p>19 Exhibit 18, a two-page document bearing</p> <p>20 Bates numbers FRONTIER12176 to 77.</p> <p>21 (Dempsey Exhibit 18, Text Messages,</p> <p>22 Bates Stamped FRONTIER0012176 through 77,</p> <p>23 marked for identification.)</p> <p>24 Q. This appears to be a series of text</p> <p>25 messages from Robert Fanning, dated April 29,</p>

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<p style="text-align: right;">Page 126</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 2020, and it looks like he's sending these to</p> <p>3 the same group of you, Mr. Dempsey, and Spencer</p> <p>4 Thwaytes and Robert Fanning.</p> <p>5 Do you agree that these are text</p> <p>6 messages from Robert Fanning to you and</p> <p>7 Mr. Thwaytes?</p> <p>8 A. Yes.</p> <p>9 Q. I guess I want to ask you about the</p> <p>10 second text on this page. Again, it's</p> <p>11 April 29, 2020, and I just want to ask you</p> <p>12 about some particular language in here that</p> <p>13 begins on the second to the last line.</p> <p>14 Mr. Fanning writes, "As mentioned,</p> <p>15 the deferred request right after the March</p> <p>16 delivery didn't go down well at all, which is</p> <p>17 why they are asking for Indigo to step in."</p> <p>18 My question, Mr. Dempsey, is, do you</p> <p>19 know what Mr. Fanning is saying here?</p> <p>20 A. I never had any direct conversations</p> <p>21 that I recall about that issue. I mean, I</p> <p>22 understand the text exists, but I mean, that's</p> <p>23 just, as far as I was concerned, noise in terms</p> <p>24 of the deal.</p> <p>25 I hadn't seen a proposal back to us.</p>	<p style="text-align: right;">Page 128</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Q. And do you know what Mr. Fanning was</p> <p>3 referring to when he talked about the deferral</p> <p>4 request not going down well with AMCK's</p> <p>5 shareholder?</p> <p>6 A. I don't.</p> <p>7 Q. Do you recall hearing that either</p> <p>8 AMCK or its shareholder was unhappy with</p> <p>9 receiving a deferral request from Frontier on</p> <p>10 the very same day that they funded an aircraft</p> <p>11 delivery for Frontier paying \$51 million to do</p> <p>12 so?</p> <p>13 MR. HOSENPUD: Object to form,</p> <p>14 compound.</p> <p>15 You can answer.</p> <p>16 THE WITNESS: I can answer? Okay.</p> <p>17 Sorry.</p> <p>18 A. Look, it seemed to be a theme</p> <p>19 between Jane and Robert. It never came up --</p> <p>20 or I don't recall it coming up in conversations</p> <p>21 that I had.</p> <p>22 Q. So you don't recall that being --</p> <p>23 you don't recall being told that that sequence</p> <p>24 of events, requesting a deferral on the same</p> <p>25 day as an aircraft delivery, created an issue</p>
<p style="text-align: right;">Page 127</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 I'm not sure if I saw a proposal at this point</p> <p>3 that Indigo -- they wanted Indigo to guarantee</p> <p>4 rent. I don't know. I don't recall that.</p> <p>5 Q. Well, Mr. Fanning is referring -- is</p> <p>6 referring to AMCK's shareholder in this text,</p> <p>7 correct?</p> <p>8 A. Yeah.</p> <p>9 Q. And who did you understand that to</p> <p>10 be?</p> <p>11 A. Sorry. Who did I understand?</p> <p>12 Q. Who was the shareholder of AMCK at</p> <p>13 this time?</p> <p>14 A. I can't recall the exact entity</p> <p>15 name, but it's their Hong Kong shareholder.</p> <p>16 Q. Okay. But did you understand, at</p> <p>17 this time, that AMCK had a Hong Kong</p> <p>18 shareholder and that was one of the primary</p> <p>19 sources of funding for AMCK?</p> <p>20 A. I don't know that it was a primary</p> <p>21 source of funding. It was certainly -- you</p> <p>22 know, they generally did leverage finance</p> <p>23 deals. So bank financing was a big portion of</p> <p>24 their funding, but clearly, their equity came</p> <p>25 from a Hong Kong-based shareholder.</p>	<p style="text-align: right;">Page 129</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 of trust for AMCK or its shareholders?</p> <p>3 A. My recollection is that Jane had</p> <p>4 said that to Robert. It never came up in any</p> <p>5 conversations -- or I don't recall it coming up</p> <p>6 in any conversations I had with Paul Sheridan.</p> <p>7 I don't recall it being a fundamental issue in</p> <p>8 trying to solve this.</p> <p>9 Q. Let me ask you about another text on</p> <p>10 this page. I want to direct your attention to</p> <p>11 the bottom of this page. There is another text</p> <p>12 from Robert Fanning a little later in the day</p> <p>13 on April 29, 2020.</p> <p>14 Mr. Fanning begins by saying, "I</p> <p>15 told her we're at the end of the line as far as</p> <p>16 options go," and then there's some more text.</p> <p>17 And then it says, "Jane's reply was could we</p> <p>18 pay the April rent and May when it's due. If</p> <p>19 we can agree to that, she could be willing to</p> <p>20 go to the shareholder and now she believes it</p> <p>21 would be enough to get them over the line."</p> <p>22 Do you see that language?</p> <p>23 A. Sorry. I need to read the entire</p> <p>24 text.</p> <p>25 Q. Sure.</p>

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<p style="text-align: right;">Page 130</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 A. (Document review.)</p> <p>3 I'm sorry. Could you repeat the</p> <p>4 question that you're asking me now?</p> <p>5 Q. My question is, what is your</p> <p>6 understanding of what Jane's reply meant?</p> <p>7 A. I mean, Robert is paraphrasing</p> <p>8 whatever she said. Jane's reply was could we</p> <p>9 pay the April rent and May when it's due.</p> <p>10 Q. Did you understand Ms. O'Callaghan</p> <p>11 to be encouraging Frontier to pay the April</p> <p>12 rent?</p> <p>13 A. It was another movement of their</p> <p>14 position that didn't get communicated directly</p> <p>15 to me at the time. Because I was in</p> <p>16 conversation with Paul Sheridan, and my</p> <p>17 understanding was that they wanted to be up to</p> <p>18 date on payment. I think Jane is saying a</p> <p>19 version of that because the next -- their</p> <p>20 desire was, at the time, to have us pay rent</p> <p>21 and not deliver an aircraft with outstanding</p> <p>22 rent.</p> <p>23 I don't know that that changes the</p> <p>24 position much in this e-mail, but...</p> <p>25 Q. Well, my question, sir, is, did you</p>	<p style="text-align: right;">Page 132</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 separately negotiating a rent deferral. And we</p> <p>3 understood that, and all the communications</p> <p>4 that we had received up until now was that they</p> <p>5 wanted that up to date in order to deliver the</p> <p>6 next aircraft.</p> <p>7 Q. You said you had a contract in place</p> <p>8 to fund delivery of the aircraft.</p> <p>9 Didn't you also have contracts in</p> <p>10 place to pay rent to AMCK?</p> <p>11 A. Yes, but we received relief from</p> <p>12 that from their chief executive during this</p> <p>13 process.</p> <p>14 Q. You hadn't received any relief at</p> <p>15 the time you requested the rent deferral,</p> <p>16 correct?</p> <p>17 MR. HOSENPUD: Object to the form.</p> <p>18 You can answer.</p> <p>19 A. We hadn't deferred the rent at the</p> <p>20 time we requested the deferral of rent.</p> <p>21 Q. Let me show you the next exhibit.</p> <p>22 MR. BUTLER: I'm marking, as Dempsey</p> <p>23 Exhibit 19, a chain of e-mails bearing</p> <p>24 Bates numbers AMCK16957 to 61.</p> <p>25 (Dempsey Exhibit 19, E-Mail Chain,</p>
<p style="text-align: right;">Page 131</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 interpret this description of Jane's message to</p> <p>3 be encouraging AMCK to pay the April rent?</p> <p>4 A. You meant Frontier to pay the April</p> <p>5 rent?</p> <p>6 Q. I'm sorry. I seem to have a brain</p> <p>7 freeze over the name of our respective clients.</p> <p>8 So let me ask the question again.</p> <p>9 Did you understand this message from</p> <p>10 Jane O'Callaghan to be that AMCK wanted</p> <p>11 Frontier to pay the April rent?</p> <p>12 A. I interpreted that she said could we</p> <p>13 pay the April rent and May when it's due, and</p> <p>14 then they would go back to their shareholder</p> <p>15 again.</p> <p>16 Q. And did you interpret this message</p> <p>17 from Ms. O'Callaghan to be that, if Frontier</p> <p>18 paid the April rent and remained current on the</p> <p>19 May rent, that she believed the shareholder</p> <p>20 would fund the upcoming deliveries under the</p> <p>21 Framework Agreement?</p> <p>22 A. I think she's implying that that</p> <p>23 would get them to deliver the aircraft, but,</p> <p>24 you know, we had a contract in place with them</p> <p>25 to deliver that aircraft, and we were</p>	<p style="text-align: right;">Page 133</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Bates Stamped AMCK016957 to 61, marked for</p> <p>3 identification.)</p> <p>4 Q. And the top e-mail in this chain is</p> <p>5 an e-mail from Paul Sheridan to you,</p> <p>6 Mr. Dempsey, dated April 30, 2020.</p> <p>7 Please take a look at this, and can</p> <p>8 you tell me whether you received this e-mail on</p> <p>9 that date?</p> <p>10 A. (Document review.) Yes.</p> <p>11 Q. And take all the time you need to</p> <p>12 review this, but I just want to ask you some --</p> <p>13 you know, about the content of this e-mail.</p> <p>14 Do you understand Mr. Sheridan to be</p> <p>15 communicating to you the conditions under which</p> <p>16 AMCK was willing, at this time, to fund the</p> <p>17 upcoming deliveries under the Framework</p> <p>18 Agreement?</p> <p>19 A. Yeah, this was their latest proposal</p> <p>20 to us.</p> <p>21 Q. And did you understand that AMCK</p> <p>22 might not fund deliveries under the Framework</p> <p>23 Agreement if these conditions could not be</p> <p>24 satisfied?</p> <p>25 A. We understood that the first two</p>

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<p style="text-align: right;">Page 134</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 points in his e-mail -- the first point in the</p> <p>3 e-mail, where we moved deliveries to July 2020</p> <p>4 and February 2021, we did not have that in</p> <p>5 place -- my recollection is we did not have</p> <p>6 that in place on that date, but we were working</p> <p>7 towards that where we would achieve, and we</p> <p>8 actually did actually achieve, moving the three</p> <p>9 aircraft into July. It was effectively moving</p> <p>10 one incremental aircraft from June to July.</p> <p>11 And we swapped -- although in the</p> <p>12 Framework Agreement, AMCK was due to deliver</p> <p>13 two aircraft in the fall, we -- it is around</p> <p>14 this time, but I don't believe it was right at</p> <p>15 this time -- we actually swapped another</p> <p>16 leasing company and got them to finance the two</p> <p>17 aircraft and move AMCK to 2021. So we achieved</p> <p>18 the first point.</p> <p>19 The second point we understood, and</p> <p>20 we were clear on that.</p> <p>21 The third point was an introduction</p> <p>22 of an item that was beyond anything that we</p> <p>23 could do and, in my opinion, was mixing issues,</p> <p>24 and it was something that was very challenging</p> <p>25 for Frontier Airlines to do, and so we could</p>	<p style="text-align: right;">Page 136</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 deliveries.</p> <p>3 So they're adding incremental items</p> <p>4 to the Framework Agreement.</p> <p>5 Q. In your mind, was there a risk that</p> <p>6 AMCK might terminate the Framework Agreement if</p> <p>7 these additional conditions were not agreed to?</p> <p>8 A. Could you repeat that?</p> <p>9 Q. Yes. My question is, in your mind,</p> <p>10 at this time, did you understand that AMCK</p> <p>11 might terminate the Framework Agreement if</p> <p>12 these additional conditions could not be</p> <p>13 satisfied?</p> <p>14 A. I mean, it was unclear to me -- I</p> <p>15 would have to get legal advice on whether they</p> <p>16 could terminate the lease -- the Framework</p> <p>17 Agreement on the basis of us not agreeing to</p> <p>18 conditions that were over and above what was in</p> <p>19 the Framework Agreement.</p> <p>20 Q. Whether they could do it legally or</p> <p>21 not is a separate question, but wasn't</p> <p>22 Mr. Sheridan telling you that AMCK might not</p> <p>23 perform under the Framework Agreement unless</p> <p>24 Frontier agreed to these additional conditions?</p> <p>25 A. I think he's threatening us that, if</p>
<p style="text-align: right;">Page 135</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 not do that at this point.</p> <p>3 And so that's where we were, and we</p> <p>4 responded in due course about that.</p> <p>5 Q. My question, sir, was, did you</p> <p>6 understand Mr. Sheridan to be telling you that</p> <p>7 AMCK would not fund future deliveries under the</p> <p>8 Framework Agreement if these conditions could</p> <p>9 not be satisfied?</p> <p>10 A. Well, he didn't have a right under</p> <p>11 the Framework Agreement not to fund on point</p> <p>12 three.</p> <p>13 Q. I'm sorry. Please finish your</p> <p>14 answer.</p> <p>15 A. No, sorry. I'm finished. Go ahead.</p> <p>16 Q. Did you understand Mr. Sheridan to</p> <p>17 be communicating that AMCK might terminate the</p> <p>18 Framework Agreement if the conditions set forth</p> <p>19 in this e-mail could not be satisfied?</p> <p>20 A. I need to read the e-mail.</p> <p>21 (Document review.)</p> <p>22 Yes, they are adding conditions to</p> <p>23 the Framework Agreement by saying we need to</p> <p>24 add some additional security to ensure that we</p> <p>25 can obtain our shareholder funding for the</p>	<p style="text-align: right;">Page 137</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 we didn't agree to this, he would not perform,</p> <p>3 correct.</p> <p>4 Q. So you interpreted this e-mail as a</p> <p>5 threat. Is that what you're testifying to?</p> <p>6 A. He's saying, "Given the extent of</p> <p>7 the damage that has done to the airline</p> <p>8 industry and to airline and lessor funding</p> <p>9 sources, we need to have some additional</p> <p>10 security to ensure that we can obtain our</p> <p>11 shareholder funding for the deliveries."</p> <p>12 He is telling us that he will not --</p> <p>13 or there is a doubt as to whether he can turn</p> <p>14 up and fund the aircraft unless we agree to the</p> <p>15 three items that are listed below.</p> <p>16 Q. And did Frontier agree to these</p> <p>17 three items?</p> <p>18 A. No, because the process of this was</p> <p>19 a continued negotiation over about a month, and</p> <p>20 we had conversations about point three, and if</p> <p>21 you look at my subsequent e-mail to this one,</p> <p>22 you'll see that I responded to this item and</p> <p>23 was incapable of agreeing to point three.</p> <p>24 Q. So I guess it came as no surprise to</p> <p>25 you when AMCK did terminate the Framework</p>

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<p style="text-align: right;">Page 142</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Exhibit 20, a continuation of the same</p> <p>3 e-mail exchange. It's bearing Bates</p> <p>4 numbers AMCK17883 to 887.</p> <p>5 (Dempsey Exhibit 20, E-Mail Chain,</p> <p>6 Bates Stamped AMCK017883 to 887, marked</p> <p>7 for identification.)</p> <p>8 Q. And the top e-mail on this page</p> <p>9 appears to be your response to Paul Sheridan on</p> <p>10 the same day, April 30, 2020.</p> <p>11 Did you send this e-mail?</p> <p>12 A. Yes.</p> <p>13 Q. And you say, "Hi Paul, you need to</p> <p>14 call me ASAP. This is an overreach." And then</p> <p>15 you give your telephone number; is that</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. Were you intending to reject</p> <p>19 Mr. Sheridan's proposal?</p> <p>20 A. My intention was to debate the third</p> <p>21 point with him.</p> <p>22 Q. And you certainly weren't agreeing</p> <p>23 to the third point, correct?</p> <p>24 A. No.</p> <p>25 Q. So what happened? Did Mr. Sheridan</p>	<p style="text-align: right;">Page 144</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 saying on this call?</p> <p>3 A. I think he reiterated his position</p> <p>4 and said he will go and see what he can do. I</p> <p>5 don't recall exactly his words, but it was</p> <p>6 something to that effect. And he would come</p> <p>7 back to me, I think.</p> <p>8 Q. Did he make any alternative proposal</p> <p>9 to you on that call?</p> <p>10 A. No, he said he would come back to</p> <p>11 me.</p> <p>12 MR. BUTLER: Let me mark the next</p> <p>13 exhibit, which we will call Dempsey</p> <p>14 Exhibit 21. It's a one-page document</p> <p>15 bearing Bates number FRONTIER3542.</p> <p>16 (Dempsey Exhibit 21, E-Mail, Bates</p> <p>17 Stamped FRONTIER0003542, marked for</p> <p>18 identification.)</p> <p>19 Q. Mr. Dempsey, this appears to be a</p> <p>20 text message in a little bit of a different</p> <p>21 format. I'm not sure why text messages were</p> <p>22 produced in more than one format, but there we</p> <p>23 have it.</p> <p>24 This appears to be a message from</p> <p>25 Robert Fanning to you and Spencer Thwaytes,</p>
<p style="text-align: right;">Page 143</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 call you that day?</p> <p>3 A. I think we had a phone call, yes.</p> <p>4 Q. Do you remember what was discussed</p> <p>5 on that phone call?</p> <p>6 A. I mean, I think I explained to him</p> <p>7 that I couldn't do point three. It just was</p> <p>8 not something that we could do.</p> <p>9 I explained -- I think I explained</p> <p>10 to him where we were with Airbus, at that point</p> <p>11 in time, and that we were trying to move the</p> <p>12 aircraft into July. I think we had possibly</p> <p>13 achieved that around this time, around</p> <p>14 April 30, and I think I communicated probably</p> <p>15 that to him.</p> <p>16 And I think he communicated to me</p> <p>17 that he wanted us to be current by May 15, and</p> <p>18 I mean, we debated point three, which I</p> <p>19 explained to him I couldn't do.</p> <p>20 Q. So you were clear to him on that</p> <p>21 call that point three was unacceptable from the</p> <p>22 Frontier side?</p> <p>23 A. I mean, it was something we couldn't</p> <p>24 do.</p> <p>25 Q. What do you remember Mr. Sheridan</p>	<p style="text-align: right;">Page 145</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 dated May 1, 2020.</p> <p>3 And the text of the message says,</p> <p>4 "Jane called me and long story short is there</p> <p>5 {sic} shareholder is not moving off point</p> <p>6 number three."</p> <p>7 My first question is, did you</p> <p>8 receive this text from Mr. Fanning on May 1,</p> <p>9 2020?</p> <p>10 A. I don't know, but I assume I did.</p> <p>11 Q. And did you interpret this text --</p> <p>12 or do you interpret this text to mean that that</p> <p>13 point number three from Paul's e-mail, that you</p> <p>14 would not agree to, is something that AMCK's</p> <p>15 shareholder is still insisting upon?</p> <p>16 A. Yes.</p> <p>17 Q. And did that employ to you, since</p> <p>18 you couldn't agree to that, did that imply to</p> <p>19 you that AMCK was not going to fund additional</p> <p>20 deliveries under the Framework Agreement?</p> <p>21 A. I did not know that that would</p> <p>22 result in that event because this was a fluid</p> <p>23 negotiation, but I think I sent an e-mail to</p> <p>24 Paul Sheridan outlining what we -- what I</p> <p>25 offered to him and what he was due to respond</p>

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<p style="text-align: right;">Page 146</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 to me on subsequent to this timeline.</p> <p>3 But I don't recall -- I don't recall</p> <p>4 this text. I think I was aware that point</p> <p>5 number three was something that they were</p> <p>6 interested in getting as part of the</p> <p>7 negotiation.</p> <p>8 MR. BUTLER: Let me mark the next</p> <p>9 exhibit. I'm going to show you what we're</p> <p>10 marking as Dempsey Exhibit 22. It's a</p> <p>11 document bearing Bates numbers</p> <p>12 FRONTIER5663 through 5677.</p> <p>13 (Dempsey Exhibit 22, E-Mail Chain,</p> <p>14 Bates Stamped FRONTIER0005663 through</p> <p>15 5677, marked for identification.)</p> <p>16 Q. And it's an e-mail from Ray Bishop</p> <p>17 of Airbus to various people, which do not</p> <p>18 include you, but it attaches what appears to be</p> <p>19 the -- an Amendment No. 9 with Airbus.</p> <p>20 Do you see that attachment?</p> <p>21 A. Yes.</p> <p>22 Q. And is it your -- do you understand</p> <p>23 that there was an Amendment No. 9 entered with</p> <p>24 Airbus that implemented the delivery delays</p> <p>25 that included the aircraft covered by the</p>	<p style="text-align: right;">Page 148</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 representing Frontier in this transaction; is</p> <p>3 that right?</p> <p>4 A. Yes.</p> <p>5 Q. And it looks like he's -- Ray Bishop</p> <p>6 is sending a compiled version of Amendment No.</p> <p>7 9 with the signatures appended.</p> <p>8 Do you see that?</p> <p>9 A. Yeah, they're releasing signatures,</p> <p>10 yeah.</p> <p>11 Q. Releasing signatures. And that's on</p> <p>12 May 5, 2020, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Does that refresh your memory that</p> <p>15 the agreement with Airbus changing the delivery</p> <p>16 schedule was finalized on the 5th of May 2020?</p> <p>17 A. I think so. I think that's correct.</p> <p>18 Q. Did you obtain approval of the new</p> <p>19 delivery schedule from AMCK before you</p> <p>20 finalized this agreement?</p> <p>21 A. No.</p> <p>22 Q. In fact, AMCK never approved the new</p> <p>23 delivery schedule that you negotiated with</p> <p>24 Airbus, correct?</p> <p>25 A. AMCK doesn't have an approval right</p>
<p style="text-align: right;">Page 147</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Framework Agreement?</p> <p>3 A. Sorry. Could you repeat that</p> <p>4 question?</p> <p>5 Q. Is it your recollection that there</p> <p>6 was an Amendment No. 9 entered with Airbus that</p> <p>7 implemented the delivery delays that included</p> <p>8 the AMCK aircraft?</p> <p>9 A. Yes.</p> <p>10 Q. And was that agreement with Airbus</p> <p>11 signed on May 5, 2020?</p> <p>12 A. I think so. I think that date makes</p> <p>13 sense.</p> <p>14 Q. That sounds right now?</p> <p>15 A. I mean, I'm sure it's at the bottom</p> <p>16 of this agreement, if you want to show it to</p> <p>17 me.</p> <p>18 Q. It's not as clear as you might</p> <p>19 think, but I'll show you the cover e-mail is</p> <p>20 from Ray Bishop to Paul Lambert.</p> <p>21 Who is Paul Lambert?</p> <p>22 A. Paul Lambert is our outside counsel</p> <p>23 from Lane Powell who manages our aircraft</p> <p>24 transactions.</p> <p>25 Q. So he is a corporate lawyer</p>	<p style="text-align: right;">Page 149</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 for our agreement with Airbus.</p> <p>3 Q. But you asked Paul, at least at one</p> <p>4 point, Paul Sheridan, whether he would be</p> <p>5 agreeable to a two-month extension.</p> <p>6 So whether they had a right or not,</p> <p>7 did they ever approve the new schedule that you</p> <p>8 agreed to?</p> <p>9 A. I mean, we never sought their</p> <p>10 approval of the schedule per se. We were</p> <p>11 trying to involve the timing of deliveries as</p> <p>12 part of an overall package with AMCK, and at</p> <p>13 this point in the conversations, my</p> <p>14 understanding was that moving three aircraft</p> <p>15 into met their requirements.</p> <p>16 Q. In this Amendment No. 9 with Airbus,</p> <p>17 how many orders from Frontier were delayed or</p> <p>18 rescheduled?</p> <p>19 A. I don't recall. I don't recall.</p> <p>20 Q. Was it dozens of aircraft that were</p> <p>21 rescheduled?</p> <p>22 A. In effect, what you do is you --</p> <p>23 we -- particularly the near-term aircraft</p> <p>24 deliveries beyond 2020, so the aircraft that</p> <p>25 were, say, beyond 12 months from production --</p>

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<p style="text-align: right;">Page 150</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 from completion, we effectively slid them by</p> <p>3 about six months, that was around what we did.</p> <p>4 And so that was -- it cascades. It's not</p> <p>5 perfect, but it cascades throughout the</p> <p>6 delivery program.</p> <p>7 And, in reality, they tend to move</p> <p>8 aircraft around, but it effectively has the</p> <p>9 impact of cascading the delay. But the</p> <p>10 near-term aircraft, as opposed to getting a</p> <p>11 six-month delay, received the delays that you</p> <p>12 pointed out earlier in the deposition.</p> <p>13 Q. So there was a six-month delay for</p> <p>14 some aircraft under this agreement with Airbus,</p> <p>15 just not for the aircraft covered by the</p> <p>16 Framework Agreement; is that right?</p> <p>17 MR. HOSENPUD: Object to the form,</p> <p>18 misstates.</p> <p>19 You can answer.</p> <p>20 A. The aircraft that were outside of a</p> <p>21 near-term delivery, so the aircraft that were</p> <p>22 outside of the production line, they received a</p> <p>23 longer deferral for different reasons than the</p> <p>24 close-in AMCK aircraft that we're dealing with</p> <p>25 here.</p>	<p style="text-align: right;">Page 152</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 communicate the new delivery dates for the</p> <p>3 Framework Agreement aircraft to AMCK?</p> <p>4 A. I think we did, yeah. I think we</p> <p>5 communicated it multiple times to them, either</p> <p>6 in my conversations with them or we</p> <p>7 communicated with them that we were working</p> <p>8 towards this.</p> <p>9 You know, I think we kept them</p> <p>10 informed as to how we were getting on.</p> <p>11 Q. Do you remember after -- do you</p> <p>12 remember informing AMCK that this agreement had</p> <p>13 been finalized with Airbus?</p> <p>14 A. I mean, I don't know that we had an</p> <p>15 obligation to -- a notice obligation to AMCK on</p> <p>16 the back of finalizing this agreement. They</p> <p>17 were aware that this was happening.</p> <p>18 Q. And my question, sir, is, whether</p> <p>19 you had an obligation or not, do you remember</p> <p>20 telling anyone at AMCK that this agreement with</p> <p>21 Airbus had been finalized?</p> <p>22 A. I don't recall specific</p> <p>23 conversations subsequent to May 5 after the</p> <p>24 agreement had been signed. I do recall an</p> <p>25 e-mail where I was reminding Paul Sheridan he</p>
<p style="text-align: right;">Page 151</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Q. It does sound like there were a lot</p> <p>3 of aircraft deliveries that were rescheduled</p> <p>4 that had nothing to do with AMCK or the</p> <p>5 Framework Agreement; is that correct?</p> <p>6 MR. HOSENPUD: Object to the form.</p> <p>7 You can answer.</p> <p>8 A. The background to that is Airbus had</p> <p>9 made a decision to reduce its production by</p> <p>10 40 percent. And so in light of that, there</p> <p>11 were movements longer term in the aircraft</p> <p>12 delivery schedule to meet the -- or to react to</p> <p>13 the cut in production that Airbus made.</p> <p>14 That was separate to the aircraft</p> <p>15 that were built, already built and pending</p> <p>16 delivery or nearly built and pending delivery</p> <p>17 with Airbus, and those aircraft are the AMCK</p> <p>18 near-term deliveries that got delayed three,</p> <p>19 four months.</p> <p>20 Q. Okay. But for whatever reason, this</p> <p>21 amendment was broader than just the aircraft</p> <p>22 covered by the Framework Agreement, correct?</p> <p>23 A. That's correct.</p> <p>24 Q. When you got this new delivery</p> <p>25 schedule finalized with Airbus, did you</p>	<p style="text-align: right;">Page 153</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 owed me a response to our conversation the</p> <p>3 previous week around the proposal that he made</p> <p>4 in the e-mail you showed me.</p> <p>5 And I think I confirmed what we had</p> <p>6 done, but I don't recall a specific</p> <p>7 communication driven by signing an agreement</p> <p>8 with Airbus. AMCK is not a party to the</p> <p>9 agreement with Airbus.</p> <p>10 Q. Well, let me mark the next exhibit,</p> <p>11 which comes right on time because it's the</p> <p>12 e-mail you just referenced.</p> <p>13 MR. BUTLER: I'm marking, as Dempsey</p> <p>14 Exhibit 23, a document bearing Bates</p> <p>15 numbers AMCK17004 to 1708.</p> <p>16 (Dempsey Exhibit 23, E-Mail Chain,</p> <p>17 Bates Stamped AMCK017004 through 1708,</p> <p>18 marked for identification.)</p> <p>19 Q. This appears to be a chain of</p> <p>20 e-mails, two of which are from you to Paul</p> <p>21 Sheridan on May 8, 2020. You can see them both</p> <p>22 on your screen. They are the first two e-mails</p> <p>23 in this chain.</p> <p>24 Did you send these e-mails to</p> <p>25 Mr. Sheridan on May 8?</p>

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<p style="text-align: right;">Page 154</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. And in the second e-mail, which is</p> <p>4 the first e-mail that you sent on May 8, 2020,</p> <p>5 you write, "Hi Paul, I have been waiting</p> <p>6 patiently for your response to our call whereby</p> <p>7 I offered the following solution." And we will</p> <p>8 get to the description in a moment.</p> <p>9 But do you know what call you're</p> <p>10 referring to in this sentence?</p> <p>11 A. Yes, it's the call that we had as a</p> <p>12 follow up to his e-mail where I stated, if you</p> <p>13 scroll down, I don't know if it's in this</p> <p>14 chain, but where I responded to this saying</p> <p>15 please call me.</p> <p>16 Q. So did that call occur on April 30,</p> <p>17 to the best of your recollection?</p> <p>18 A. I don't know. On or around that</p> <p>19 date, yes.</p> <p>20 Q. And on that call, did you make the</p> <p>21 proposal that is described in these two e-mails</p> <p>22 that you sent on May 8?</p> <p>23 A. Yes.</p> <p>24 Q. And one element of the solution that</p> <p>25 you had proposed was that the next aircraft</p>	<p style="text-align: right;">Page 156</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 were.</p> <p>3 Q. But on April 30, when you spoke to</p> <p>4 him, you hadn't entered an agreement yet,</p> <p>5 right?</p> <p>6 A. No, but the agreement was being</p> <p>7 papered. It was days away from being signed.</p> <p>8 Q. So was Mr. Sheridan aware, at this</p> <p>9 time, that delivery date for the new aircraft</p> <p>10 had already been moved to July 2020?</p> <p>11 A. Yes, and there is no controversy</p> <p>12 because they asked for the three aircraft to be</p> <p>13 moved to July 2020, and that's the agreement we</p> <p>14 put in place with Airbus.</p> <p>15 In addition to that, I reminded him</p> <p>16 that we have also moved two aircraft to 2021,</p> <p>17 which met -- which also met his condition.</p> <p>18 Q. Okay. The other elements of your</p> <p>19 proposal are prepayment of rent for six months</p> <p>20 on near-term delivery?</p> <p>21 A. Yeah.</p> <p>22 Q. And repayment of deferred rent by</p> <p>23 the end of July 2020, July through December,</p> <p>24 you say; is that correct?</p> <p>25 A. That's right.</p>
<p style="text-align: right;">Page 155</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 delivery would be moved to July 20.</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And that, in fact, had already been</p> <p>6 agreed with Airbus, correct?</p> <p>7 A. So I'm recounting my call, which</p> <p>8 occurred prior to signing the agreement with</p> <p>9 Airbus, but I'm sending this e-mail after the</p> <p>10 agreement has been signed.</p> <p>11 Q. Okay. But by the time you sent this</p> <p>12 e-mail, that July 2020 delivery date was</p> <p>13 already set in stone, correct?</p> <p>14 A. That's right.</p> <p>15 Q. And in this e-mail, you don't tell</p> <p>16 Paul about your finalized agreement with</p> <p>17 Airbus, correct?</p> <p>18 A. I don't specify that this is agreed</p> <p>19 with Airbus. I think -- I think he was well</p> <p>20 aware, at the time, of where we were with</p> <p>21 Airbus.</p> <p>22 Q. How would he be well aware that you</p> <p>23 had signed a new agreement with Airbus?</p> <p>24 A. I mean, I spoke to him the previous</p> <p>25 week, and I was quite transparent with where we</p>	<p style="text-align: right;">Page 157</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Q. And then you send a second e-mail</p> <p>3 with a fourth -- what you describe as a fourth</p> <p>4 concession that you're making, and that's</p> <p>5 replacing AMCK as financier on the last two</p> <p>6 deliveries for the agreement; is that right?</p> <p>7 A. Yes, we were taking the obligation</p> <p>8 to fund the two aircraft that were delivering</p> <p>9 in September -- I think they were in the fall,</p> <p>10 between September and November, and we were</p> <p>11 taking the obligation away from AMCK in this</p> <p>12 concession and moving their aircraft deliveries</p> <p>13 into 2021.</p> <p>14 Q. And was all of that communicated by</p> <p>15 you during that April 30 telephone call?</p> <p>16 A. Yes, I say, "I have been waiting</p> <p>17 patiently for your response to the call where I</p> <p>18 offered the following solution."</p> <p>19 Sorry, the fourth item I think I</p> <p>20 offered in addition to the call because we were</p> <p>21 trying to put that in place at the time. We</p> <p>22 were trying to see if we could actually manage</p> <p>23 that.</p> <p>24 Q. I see. Was that a new element to</p> <p>25 your proposal that you were communicating for</p>

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<p style="text-align: right;">Page 158</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 the first time on May 8?</p> <p>3 A. I don't recall exactly, but I think</p> <p>4 that's correct. I think that was an element</p> <p>5 that we were trying to get. We were trying to</p> <p>6 satisfy the -- what we saw at the time was --</p> <p>7 the timing of deliveries was crucial to AMCK,</p> <p>8 and we were endeavoring to meet their request</p> <p>9 on that item.</p> <p>10 Q. Just going back to your proposal on</p> <p>11 the deferred rent. I just want to clarify one</p> <p>12 thing. So your proposal says, "deferred rent</p> <p>13 for April and May 2020."</p> <p>14 Were you seeking rent deferral for</p> <p>15 April and the full month of May?</p> <p>16 A. Yes.</p> <p>17 Q. So that's different from the</p> <p>18 proposal from Paul that -- where one of the</p> <p>19 conditions was that everything had to be</p> <p>20 current by May 15, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And, in fact, your proposal that</p> <p>23 you're articulating on May 8 is very different</p> <p>24 from the proposal that Paul made on April 30,</p> <p>25 which you promptly rejected, correct?</p>	<p style="text-align: right;">Page 160</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 Q. Absolutely. I just want to alert</p> <p>3 you to that, but by all means let's take a</p> <p>4 ten-minute break or should we make it five</p> <p>5 minutes and just come back at 2:45?</p> <p>6 A. Let's do five minutes.</p> <p>7 Q. Okay. And then we will have you</p> <p>8 finished for the day before very long.</p> <p>9 A. Thank you.</p> <p>10 Q. Okay.</p> <p>11 (Recess taken.)</p> <p>12 MR. BUTLER: I'm going to mark the</p> <p>13 next exhibit, which I'm going to call</p> <p>14 Dempsey Exhibit 24. It's a document</p> <p>15 bearing Bates numbers AMCK17018 to 17020.</p> <p>16 (Dempsey Exhibit 24, Letter, Dated</p> <p>17 May 9, 2020, Bates Stamped AMCK017018</p> <p>18 through 17020, marked for identification.)</p> <p>19 Q. And this is a letter dated May 9,</p> <p>20 2020 from Howard Diamond to AMCK Aviation</p> <p>21 Holdings. That's Howard Diamond of Frontier</p> <p>22 Airlines.</p> <p>23 And we can scroll through this as</p> <p>24 much as you want, but my question, Mr. Dempsey,</p> <p>25 is, do you recognize this letter?</p>
<p style="text-align: right;">Page 159</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 A. We rejected his point three. We</p> <p>3 were trying to negotiate his point two, and we</p> <p>4 were meeting his point one.</p> <p>5 As I said, up until this point, it</p> <p>6 was a very fluid negotiation. And our view was</p> <p>7 that we were progressing matters, albeit there</p> <p>8 was one item that was a sticking point that</p> <p>9 they had raised on April 30 that we couldn't</p> <p>10 deliver.</p> <p>11 Q. And is it correct that it was still</p> <p>12 a very fluid situation when you received the</p> <p>13 termination notice from AMCK later in the day</p> <p>14 on the 8th of May?</p> <p>15 A. I would deem that that was a</p> <p>16 surprise.</p> <p>17 Q. All right. Let me show you the next</p> <p>18 exhibit.</p> <p>19 MR. BUTLER: I have marked as --</p> <p>20 A. Before you do that, I just would</p> <p>21 like to go for a quick --</p> <p>22 Q. Absolutely. For your information, I</p> <p>23 don't have too much left.</p> <p>24 A. I only need about two or three</p> <p>25 minutes.</p>	<p style="text-align: right;">Page 161</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. Is this the response that Frontier</p> <p>4 sent to the termination notice sent by AMCK?</p> <p>5 A. Yes.</p> <p>6 Q. Did you participate in the drafting</p> <p>7 of this letter?</p> <p>8 A. At a very high level, yes.</p> <p>9 MR. HOSENPUD: Wait, wait, wait,</p> <p>10 wait, wait. Do not comment on what was</p> <p>11 communicated. That's attorney/client</p> <p>12 privilege.</p> <p>13 THE WITNESS: Oh, sorry.</p> <p>14 MR. HOSENPUD: That's all right.</p> <p>15 Q. So just to make sure there's no</p> <p>16 attorney/client issue, can you tell me, yes or</p> <p>17 no, did you participate in the drafting of this</p> <p>18 letter?</p> <p>19 A. Yes.</p> <p>20 Q. Did you review this letter before it</p> <p>21 was sent?</p> <p>22 A. Yes.</p> <p>23 MR. BUTLER: Let me mark the next</p> <p>24 exhibit, which is Dempsey Exhibit 25.</p> <p>25 It's a one-page document bearing Bates</p>

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<p style="text-align: right;">Page 162</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 number FRONTIER12209.</p> <p>3 (Dempsey Exhibit 25, Text Messages,</p> <p>4 Bates Stamped FRONTIER0012209 through</p> <p>5 12210, marked for identification.)</p> <p>6 Q. And this appears to be a series of</p> <p>7 text messages from you, Mr. Dempsey, dated the</p> <p>8 10th of May 2020.</p> <p>9 Do these appear to be your text</p> <p>10 messages?</p> <p>11 A. Yes.</p> <p>12 Q. I just want to ask you about the</p> <p>13 third text on this page. It's, again, from</p> <p>14 May 10, 2020, and it appears you write, "We</p> <p>15 have to find an alternative financier. We are</p> <p>16 gonna end up in court with AMCK."</p> <p>17 Did I read that correctly?</p> <p>18 A. Yes.</p> <p>19 Q. Was it your understanding as of</p> <p>20 May 10, 2020, that this dispute between</p> <p>21 Frontier and AMCK was going to end up in</p> <p>22 litigation in court?</p> <p>23 A. I was unsure. It was an opinion at</p> <p>24 the time. It was unclear where we were at that</p> <p>25 point.</p>	<p style="text-align: right;">Page 164</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 before?</p> <p>3 A. I don't recall. Can you scroll</p> <p>4 down?</p> <p>5 Q. Sure.</p> <p>6 A. (Document review.)</p> <p>7 I don't recall, but no.</p> <p>8 Q. Okay. So you recall the May 9</p> <p>9 letter and reviewing that.</p> <p>10 Do you recall reviewing this May 13</p> <p>11 letter before it was sent out?</p> <p>12 A. I mean, I don't recall, but I'm not</p> <p>13 saying I didn't. I just don't recall.</p> <p>14 Q. Okay.</p> <p>15 MR. BUTLER: Okay. Let me mark the</p> <p>16 next exhibit. I'm marking, as Dempsey</p> <p>17 Exhibit 27, a one-page document bearing</p> <p>18 Bates number FRONTIER8058.</p> <p>19 (Dempsey Exhibit 27, E-Mail Chain,</p> <p>20 Bates Stamped FRONTIER0008058 through</p> <p>21 8059, marked for identification.)</p> <p>22 Q. It's a series of e-mails dated</p> <p>23 April 13, 2020, and it looks like -- Gege, if</p> <p>24 you scroll down -- it looks like you're giving</p> <p>25 your approval on a payment to AMCK; is that</p>
<p style="text-align: right;">Page 163</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 I was very surprised that they had</p> <p>3 defaulted on the agreement with us, on the</p> <p>4 Framework Agreement. We could have paid the</p> <p>5 rent that was owing to them at any time. We</p> <p>6 were managing a liquidity situation, and the</p> <p>7 notice that they sent to us that precipitated</p> <p>8 our general counsel's letter was a significant</p> <p>9 event and a big surprise to us.</p> <p>10 Q. Mr. Dempsey, did you write the words</p> <p>11 "We are gonna end up in court with AMCK," on</p> <p>12 May 10, 2020?</p> <p>13 A. Yes.</p> <p>14 MR. BUTLER: Let me mark the next</p> <p>15 exhibit. Dempsey Exhibit 26 is a document</p> <p>16 bearing Bates numbers AMCK17029 to 103 --</p> <p>17 17031, apologies.</p> <p>18 (Dempsey Exhibit 26, Letter, Dated</p> <p>19 May 13, 2020, Bates Stamped AMCK017029</p> <p>20 through 17031, marked for identification.)</p> <p>21 Q. This appears to be a May 13 letter</p> <p>22 from Frontier signed by Howard Diamond to Ernie</p> <p>23 Yu of AMCK.</p> <p>24 And my question is, we are happy to</p> <p>25 scroll through this, have you seen this letter</p>	<p style="text-align: right;">Page 165</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 correct?</p> <p>3 A. Yes, we were trying to cure their</p> <p>4 letter from the previous week, and so we paid</p> <p>5 the rent promptly, given that we were capable</p> <p>6 of doing it because we wanted to rectify the</p> <p>7 situation.</p> <p>8 Q. So did Frontier pay all of the</p> <p>9 outstanding rent owed to AMCK on May 13, 2020?</p> <p>10 A. That's my understanding, yes.</p> <p>11 MR. BUTLER: And, Gege, if you can</p> <p>12 scroll to the next page where there is a</p> <p>13 total of the rent payments listed.</p> <p>14 Q. Was the total amount due at that</p> <p>15 time \$5,828,440?</p> <p>16 A. I don't recall, but I mean, that's</p> <p>17 the payment I assume we made.</p> <p>18 Q. Do you recall that it was an amount</p> <p>19 around \$5.8 million?</p> <p>20 A. I don't, but I mean, I don't put</p> <p>21 together the payments. There's other people</p> <p>22 who do that within the organization.</p> <p>23 Q. And what prompted Frontier to make a</p> <p>24 payment to AMCK at this particular time?</p> <p>25 DI MR. HOSENPUD: Objection to the</p>

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<p style="text-align: right;">Page 166</p> <p>1 DEMPSEY - CONFIDENTIAL</p> <p>2 extent it calls for attorney/client</p> <p>3 communications. I'm going to instruct you</p> <p>4 not to answer.</p> <p>5 If you have independent information</p> <p>6 separate from consulting counsel, you may</p> <p>7 answer.</p> <p>8 THE WITNESS: No.</p> <p>9 Q. Based on your attorney's</p> <p>10 instruction, are you able to answer my</p> <p>11 question?</p> <p>12 A. No.</p> <p>13 Q. Did AMCK send you a reminder to make</p> <p>14 this payment?</p> <p>15 A. I don't recall receiving a reminder</p> <p>16 to make this payment.</p> <p>17 MR. BUTLER: Thank you, Mr. Dempsey.</p> <p>18 I have no further questions.</p> <p>19 MR. HOSENPUD: Nothing from</p> <p>20 plaintiff's counsel.</p> <p>21 MR. BUTLER: Very good. Then</p> <p>22 Mr. Dempsey, you're free for the rest of</p> <p>23 the day. Enjoy your day and thank you</p> <p>24 very much for your time.</p> <p>25 (Time noted: 2:52 p.m.)</p>	<p style="text-align: right;">Page 168</p> <p>1</p> <p>2 ----- EXHIBITS (Cont'd) -----</p> <p>3 DEMPSEY PAGE</p> <p>4 Exhibit 6 Text Messages, Bates 48</p> <p>5 Stamped FRONTIER0003488</p> <p>6 through 3489</p> <p>7 Exhibit 7 E-Mail Chain, Bates 68</p> <p>8 Stamped FRONTIER0000251</p> <p>9 through 253</p> <p>10 Exhibit 8 E-Mail Chain, Bates 71</p> <p>11 Stamped FRONTIER0000314</p> <p>12 through 316</p> <p>13 Exhibit 9 Text Messages, Bates 82</p> <p>14 Stamped FRONTIER0003493</p> <p>15 and FRONTIER0012172</p> <p>16 Exhibit 10 E-Mail Chain, Bates 87</p> <p>17 Stamped FRONTIER0004144</p> <p>18 through 45</p> <p>19 Exhibit 11 Text Message, Bates 92</p> <p>20 Stamped FRONTIER0012173</p> <p>21 Exhibit 12 E-Mail Chain, Bates 94</p> <p>22 Stamped AMCK17769 through</p> <p>23 17771</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 167</p> <p>1</p> <p>2 ----- I N D E X -----</p> <p>3 WITNESS EXAMINATION BY PAGE</p> <p>4 JAMES DEMPSEY MR. BUTLER 4</p> <p>5</p> <p>6 DIRECTIONS: PAGE 59, 166</p> <p>7</p> <p>8 ----- EXHIBITS -----</p> <p>9 DEMPSEY PAGE</p> <p>10 Exhibit 1 Text Messages, Bates 15</p> <p>11 Stamped FRONTIER0003467</p> <p>12 Exhibit 2 E-Mail With Attachment, 23</p> <p>13 Bates Stamped</p> <p>14 FRONTIER0000240 through</p> <p>15 242</p> <p>16 Exhibit 3 E-Mail, Bates Stamped 36</p> <p>17 AMCK16595</p> <p>18 Exhibit 4 E-Mail Chain, Bates 41</p> <p>19 Stamped FRONTIER310</p> <p>20 through 311</p> <p>21 Exhibit 5 Text Messages, Bates 47</p> <p>22 Stamped FRONTIER0003480</p> <p>23 through 82</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 169</p> <p>1</p> <p>2 ----- EXHIBITS (Cont'd) -----</p> <p>3 DEMPSEY PAGE</p> <p>4 Exhibit 13 E-Mail Chain, Bates 103</p> <p>5 Stamped FRONTIER0004329</p> <p>6 through 4334</p> <p>7 Exhibit 14 Text Messages, Bates 105</p> <p>8 Stamped FRONTIER0003500</p> <p>9 and 3502</p> <p>10 Exhibit 15 Text Messages, Bates 110</p> <p>11 Stamped FRONTIER0003504</p> <p>12 Exhibit 16 Text Messages, Bates 115</p> <p>13 Stamped FRONTIER0003510</p> <p>14 through 3513</p> <p>15 Exhibit 17 E-Mail Chain, Bates 118</p> <p>16 Stamped FRONTIER0000338</p> <p>17 through 342</p> <p>18 Exhibit 18 Text Messages, Bates 125</p> <p>19 Stamped FRONTIER0012176</p> <p>20 through 77</p> <p>21 Exhibit 19 E-Mail Chain, Bates 133</p> <p>22 Stamped AMCK016957 to 61</p> <p>23 Exhibit 20 E-Mail Chain, Bates 142</p> <p>24 Stamped AMCK017883 to 887</p> <p>25</p>

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